

HOUSE BILL NO. 192

INTRODUCED BY WANZENRIED, PETERSON, COHEN,
DOWELL, VAUGHN

IN THE HOUSE

JANUARY 15, 1991	INTRODUCED AND REFERRED TO COMMITTEE ON BUSINESS & ECONOMIC DEVELOPMENT.
JANUARY 16, 1991	FIRST READING.
JANUARY 17, 1991	ON MOTION, REREFERRED TO COMMITTEE ON HIGHWAYS & TRANSPORTATION.
FEBRUARY 16, 1991	COMMITTEE RECOMMEND BILL DO PASS. REPORT ADOPTED.
FEBRUARY 18, 1991	PRINTING REPORT.
FEBRUARY 25, 1991	SECOND READING, DO PASS. ENGROSSING REPORT.
FEBRUARY 26, 1991	THIRD READING, PASSED. AYES, 60; NOES, 40. TRANSMITTED TO SENATE.

IN THE SENATE

FEBRUARY 26, 1991	INTRODUCED AND REFERRED TO COMMITTEE ON HIGHWAYS & TRANSPORTATION. FIRST READING.
MARCH 28, 1991	COMMITTEE RECOMMEND BILL BE CONCURRED IN AS AMENDED. REPORT ADOPTED.
APRIL 4, 1991	SECOND READING, CONCURRED IN.
APRIL 5, 1991	THIRD READING, CONCURRED IN. AYES, 38; NOES, 12. RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

APRIL 9, 1991	RECEIVED FROM SENATE.
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APRIL 10, 1991

SECOND READING, AMENDMENTS
CONCURRED IN.

THIRD READING, AMENDMENTS
CONCURRED IN.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 *HOUSE* BILL NO. *192*
 2 INTRODUCED BY *WALTER R. POTTER* *CL* *Donnell*
 3 *Laughlin*
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO INCLUDE THE
 5 TRANSPORTATION OF LOGS AS A REGULATED COMMODITY UNDER THE
 6 LAWS RELATED TO MOTOR CARRIERS; TO ESTABLISH A NEW CLASS E
 7 MOTOR CARRIER CLASSIFICATION FOR TRANSPORTING LOGS;
 8 PROVIDING QUALIFICATIONS FOR CERTIFICATION OF CLASS E MOTOR
 9 CARRIERS; PROVIDING FOR CLASS E MOTOR CARRIER RATES,
 10 CONTRACT PROVISIONS, AND CONTRACT FORMS; AMENDING SECTIONS
 11 69-12-101, 69-12-102, 69-12-201, 69-12-205, 69-12-301,
 12 69-12-321, 69-12-322, 69-12-407, 69-12-501, 69-12-502, AND
 13 69-12-611, MCA; AND PROVIDING EFFECTIVE DATES AND A
 14 TERMINATION DATE."

15
 16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

17 **Section 1.** Section 69-12-101, MCA, is amended to read:

18 "69-12-101. Definitions. Unless the context requires
 19 otherwise, in this chapter the following definitions apply:

20 (1) "Between fixed termini" or "over a regular route"
 21 means the termini or route between or over which a motor
 22 carrier usually or ordinarily operates motor vehicles, even
 23 though there may be periodical or irregular departures from
 24 the termini or route.

25 (2) "Certificate" means the certificate of public

1 convenience and necessity issued under this chapter.

2 (3) "Compensation" means the charge imposed on motor
 3 carriers for the use of the highways in this state by motor
 4 carriers under 69-12-421.

5 (4) "Corporation" means a corporation, company,
 6 association, or joint-stock association.

7 (5) "For hire" means for remuneration of any kind, paid
 8 or promised, either directly or indirectly, or received or
 9 obtained through leasing, brokering, or buy-and-sell
 10 arrangements from which a remuneration is obtained or
 11 derived for transportation service.

12 (6) "Log" means a fallen or felled tree, delimbed and
 13 cut to length for transportation to a point for storage or
 14 processing.

15 (7) "Motor carrier" means a person or corporation,
 16 or its lessees, trustees, or receivers appointed by any
 17 court, operating motor vehicles upon any public highway in
 18 this state for the transportation of persons or property for
 19 hire on a commercial basis, either as a common carrier or
 20 under private contract, agreement, charter, or undertaking.
 21 The term includes any motor carrier serving the public in
 22 the business of transportation of ashes, trash, waste,
 23 refuse, rubbish, garbage, and organic and inorganic matter.

24 (8) "Motor vehicle" includes vehicles or machines,
 25 motor trucks, tractors, or other self-propelled vehicles

1 used for the transportation of property or persons over the
2 public highways of the state.

3 {8}{9} "Person" means an individual, firm, or
4 partnership.

5 {9}{10} "Public highway" means a public street, road,
6 highway, or way in this state.

7 {10}{11} "Railroad" means the movement of cars on rails,
8 regardless of the motive power used."

9 **Section 2.** Section 69-12-102, MCA, is amended to read:

10 "69-12-102. Scope of chapter -- exemptions. (1) This
11 chapter does not affect:

12 (a) motor vehicles used in carrying property consisting
13 of agricultural commodities other than logs (not including
14 manufactured products thereof of agricultural commodities)
15 if the motor vehicles are not used in carrying other
16 property or passengers for compensation;

17 (b) the operation of school buses which are used in
18 conveying pupils or other students enrolled in classes to
19 and from district or other schools or in transportation
20 movements related to school activities which are sponsored
21 or supervised by school authorities;

22 (c) the transportation by means of motor vehicles in
23 the regular course of business of employees, supplies, and
24 materials by a person or corporation engaged exclusively in
25 the construction or maintenance of highways or engaged

1 exclusively in logging or mining operations, insofar as the
2 use of employees, supplies, and materials in construction
3 and production is concerned;

4 (d) the transportation of property by motor vehicle in
5 a city, town, or village with a population of less than 500
6 persons according to the latest United States census or in
7 the commercial areas thereof, as determined by the
8 commission;

9 (e) the transportation of newspapers, newspaper
10 supplements, periodicals, or magazines;

11 (f) tow trucks and wreckers designed and exclusively
12 used in towing abandoned, wrecked, or disabled vehicles or
13 while these tow trucks and wreckers are rendering assistance
14 to abandoned, wrecked, or disabled vehicles;

15 (g) motor vehicles used exclusively in carrying junk
16 vehicles from a collection point to a motor vehicle wrecking
17 facility or a motor vehicle graveyard;

18 (h) ambulances;

19 (i) the transportation of pit run or processed sand and
20 gravel, concrete mix, aggregate, plant mix asphalt pavement,
21 aggregate mix, dirt, rock, material from demolished
22 buildings and structures, used paving materials, used
23 concrete, broken concrete, riprap, and other forms and types
24 of materials transported solely for the purpose of
25 excavation or fill;

(j) the transportation by motor vehicle of not more than 15 passengers between their places of residence or termini near their residences and their places of employment in a single daily round trip if the driver is also on his way to or from his place of employment;

(k) the transportation of property by motor carrier as part of a continuous movement if such property, prior or subsequent to such part of a continuous movement, has been or will be transported by an air carrier;

(l) the operation of:

(i) a transportation system by a municipality or transportation district as provided in Title 7, chapter 14, part 2; or

(ii) municipal bus service pursuant to Title 7, chapter 14, part 44;

(m) armored motor vehicles used exclusively for the transportation of coins, currency, silver bullion, gold bullion, and other precious metals, precious stones, valuable paintings, and other items of unusual value requiring special handling and security; or

(n) the transportation of a commodity under an agreement between a motor carrier and an office or agency of the United States government.

(2) This chapter does not prevent bona fide leases, brokerage agreements, or buy-and-sell agreements."

Section 3. Section 69-12-201, MCA, is amended to read:

"69-12-201. Supervision and regulation of motor carriers. (1) The commission ~~is hereby vested with~~ has the power and authority and it is ~~hereby made~~ its duty to:

(a) supervise and regulate every motor carrier in this state;

(b) fix, alter, regulate, and determine specific, just, reasonable, equal, nondiscriminatory, and sufficient rates, fares, charges, and classifications for Class A, and Class B, and Class E motor carriers;

(c) regulate the properties, facilities, operations, accounts, service, practices, and affairs of all motor carriers;

(d) require the filing of annual and other reports, tariffs, schedules, or other data by such motor carriers;

(e) supervise and regulate motor carriers in all matters affecting the relationship between such motor carriers and the traveling and shipping public.

(2) The commission ~~shall have power and authority~~ may, by general order or otherwise, to prescribe rules in conformity with this chapter and applicable to any and all motor carriers.

(3) The commission ~~also~~ may fix and determine reasonable maximum or minimum rates for the operations of any Class C motor carrier when ~~the same~~ rates are required

1 for the best interests of public transportation.

2 (4) The commission may fix and determine reasonable
 3 maximum or minimum rates for the operations of any Class E
 4 motor carrier operating under contract when rates are
 5 required for the best interests of public transportation.
 6 For purposes of this subsection, a contract rate of not less
 7 than 90% of the carrier's approved tariff rate is considered
 8 a reasonable rate. However, upon good cause shown by the
 9 carrier, the commission may approve a minimum rate that is
 10 less than 90% of the carrier's approved tariff rate."

11 **Section 4.** Section 69-12-205, MCA, is amended to read:
 12 "69-12-205. Rules to reflect differences between
 13 carrier classes. All rules in relation to schedules,
 14 service, tariffs, rates, facilities, accounts, and reports
 15 ~~shall must~~ have due regard for the differences existing
 16 between Class A, Class B, Class C, and Class D, and Class E
 17 motor carriers, as ~~herein~~ defined in this chapter, and ~~shall~~
 18 ~~must~~ be just, fair, and reasonable to the said classes of
 19 motor carriers in their relations to each other and to the
 20 public. In fixing the tariff or rates to be charged by Class
 21 A, and Class B, and Class E motor carriers for the carrying
 22 of persons ~~and/or~~ or property, or both, the commission shall
 23 take into consideration the kind and character of service to
 24 be performed, the public necessity ~~therefor~~ of the service,
 25 and the effect of ~~such~~ the tariff and rates upon other

1 transportation agencies, if any, and shall, as far as
 2 possible, avoid detrimental or unreasonable competition with
 3 existing railroad service or service furnished by a motor
 4 carrier."

5 **Section 5.** Section 69-12-301, MCA, is amended to read:
 6 "69-12-301. Classification of motor carriers. (1) Motor
 7 carriers are hereby divided into four ~~four~~ five classes to be
 8 known as:

- 9 (a) Class A motor carriers;
- 10 (b) Class B motor carriers;
- 11 (c) Class C motor carriers;
- 12 (d) Class D motor carriers; and
- 13 (e) Class E motor carriers.

14 (2) Class A motor carriers ~~shall--embrace~~ include all
 15 motor carriers operating between fixed termini or over a
 16 regular route and under regular rates or charges, based upon
 17 either station-to-station rates or upon a mileage rate or
 18 scale.

19 (3) Class B motor carriers ~~shall--embrace~~ include all
 20 motor carriers operating under regular rates or charges
 21 based upon either station-to-station rates or upon a mileage
 22 rate or scale and not between fixed termini or over a
 23 regular route.

24 (4) Class C motor carriers ~~shall--embrace~~ include all
 25 motor carriers operating motor vehicles for distributing,

1 delivering, or collecting wares, merchandise, or commodities
2 or transporting persons, where the remuneration is fixed in
3 and the transportation service furnished under a contract,
4 charter, agreement, or undertaking.

5 (5) Class D motor carriers embraces include all motor
6 carriers operating motor vehicles transporting (including
7 pickup and disposal) ashes, trash, waste, refuse, rubbish,
8 garbage, and organic and inorganic matter.

9 (6) Class E motor carriers include all motor carriers
10 operating motor vehicles transporting logs."

11 NEW SECTION. Section 6. Class E motor carrier
12 certificate. (1) Class E motor carriers shall conduct
13 operations pursuant to a certificate of public convenience
14 and necessity issued by the commission authorizing the
15 transportation of logs. Class E motor carriers, when
16 applying for new or additional authority, shall file an
17 application with the commission in accordance with the
18 requirements of this chapter and the rules of the
19 commission.

20 (2) A motor carrier may not possess a Class E motor
21 carrier certificate or operate as a Class E motor carrier
22 unless the motor carrier actually engages in the
23 transportation of logs on a regular basis as part of the
24 motor carrier's usual business operation.

25 NEW SECTION. Section 7. Contracts for transportation

1 of logs by Class E motor carriers -- determination of rates
2 -- penalty. (1) A person or corporation proposing to
3 contract with a Class E motor carrier for the intrastate
4 transportation of logs shall at the time of the initial
5 contact regarding a specific job inform the carrier of the
6 time of payment and of any special conditions connected with
7 the job. Before the carrier picks up the load, the
8 information required under subsection (2) must be furnished
9 in writing to the carrier on a form developed by the
10 commission or on a form containing the same information
11 provided by the person proposing the contract.

12 (2) Class E motor carriers may not operate with more
13 than two contracts in effect at one time. Class E motor
14 carrier contracts must be in writing and must be in effect
15 for a minimum of 30 days. The commission shall by rule
16 prescribe the provisions it determines are necessary for
17 Class E motor carrier contracts, including but not limited
18 to the rate to be charged and its method of calculation, the
19 time and method of payment, any special conditions of
20 loading or routes demanded by the shippers, and the time of
21 performance.

22 (3) A person, corporation, or motor carrier violating
23 this section or a provision of a contract described in this
24 section is subject to a civil penalty, to be collected and
25 deposited in the general fund by the commission after notice

1 and hearing, in an amount not less than \$25 or more than
2 \$500 for the first violation and not less than \$25 or more
3 than \$1,000 for each subsequent violation.

4 NEW SECTION. Section 8. Form for contracts for
5 transportation of logs. The commission shall develop a form
6 that may be used by persons contracting with Class E motor
7 carriers as provided in [section 7]. The form must include
8 space for noting the rate and time of payment and for
9 listing any special conditions that may be included in the
10 contract. The commission shall make the forms available to
11 persons proposing to contract with a Class E motor carrier.

12 NEW SECTION. Section 9. Class E motor carrier
13 certificates for existing log transportation businesses. For
14 the period between October 1, 1991, and October 1, 1992, a
15 person or corporation engaged in the business of
16 transporting logs in Montana at any time between April 1,
17 1990, and October 1, 1991, is not subject to [section 6(1)]
18 and must be granted a statewide Class E motor carrier
19 certificate upon applying to the commission and submitting
20 proof that the person was engaged in transporting logs
21 between April 1, 1990, and October 1, 1991. The commission
22 shall develop and make available the necessary forms.

23 NEW SECTION. Section 10. Transportation of logs under
24 Class E authority only. A Class A, Class B, Class C, or
25 Class D motor carrier may not transport logs without first

1 obtaining Class E authority.

2 **Section 11.** Section 69-12-321, MCA, is amended to read:

3 "69-12-321. Hearing on application for motor carrier
4 certificate. (1) Upon the filing of such an application by a
5 Class A, Class B, Class C, or Class D, or Class E motor
6 carrier, except a Class C motor carrier authorized to
7 operate under the terms of a contract as provided in
8 69-12-324, or upon the filing of a request for a transfer of
9 authority, the commission shall give notice thereof of the
10 filing of the application to any interested party. The
11 commission shall fix a time and place for a hearing thereon
12 on the application whenever a protest or a request for a
13 hearing is received. The hearing ~~is to~~ must be set for a
14 date not later than 60 days after receipt of a protest or a
15 hearing request by the commission. Whenever no protests or
16 hearing requests are received, the commission may act on the
17 application without a hearing as prescribed by commission
18 rules.

19 (2) Any A motor carrier referred to in 69-12-322, the
20 department of highways, the governing board or boards of any
21 ~~such~~ county, town, or city into or through which the route
22 or service as proposed may extend, and any person or
23 corporation concerned are ~~hereby-declared-to-be~~ interested
24 parties to the proceedings and may offer testimony for or
25 against the granting of the certificate.

1 (3) The contracting parties referred to in 69-12-313(4)
2 must appear and offer testimony in support of the applicant.

3 (4) However, an application by a Class A, Class B,
4 Class C, or Class D, or Class E motor carrier for a
5 certificate may be disallowed without a public hearing
6 thereon when it appears from the records of the commission
7 that the route or territory sought to be served by the
8 applicant has previously been made the basis of a public
9 investigation and finding by the commission that public
10 convenience and necessity do not require the proposed motor
11 carrier service unless it is made to affirmatively appear in
12 the application by a recital of the facts that conditions
13 obtaining over the route or in the territory and affecting
14 transportation facilities therein have materially changed
15 since said the previous public investigation and finding and
16 that public convenience and necessity do now require the
17 motor carrier operation."

18 **Section 12.** Section 69-12-322, MCA, is amended to read:

19 "69-12-322. Notice of hearing. (1) Whenever a hearing
20 is scheduled, whether as a result of a protest or request or
21 upon the commission's own motion, the commission shall cause
22 a copy of the petition and notice of hearing thereon to be
23 served upon an officer or owner of any motor carrier that in
24 the opinion of the commission might be affected by the
25 granting of ~~any--such~~ the certificate and shall notify any

1 other affected party at least 10 days before the date of
2 hearing.

3 (2) Notice of ~~such~~ the hearing ~~shall~~ must be published:

4 (a) in the legal advertising section of a local
5 newspaper or newspapers deemed determined by the commission
6 to have a circulation sufficient to reach the consuming
7 public in the area under consideration for applications for
8 Class C or Class E authority and geographically limited
9 Class B authority; and

10 (b) in appropriate newspapers deemed determined by the
11 commission to have sufficient statewide circulation in the
12 case of applications for Class A authority and
13 geographically broad contemplated Class B authority."

14 **Section 13.** Section 69-12-407, MCA, is amended to read:

15 "69-12-407. Records and reports. (1) All records,
16 books, accounts, and files of every Class A, Class B, Class
17 C, and Class D, and Class E motor carrier in this state, so
18 far as ~~the--same--shall~~ they relate to the business of
19 transportation conducted by ~~such~~ the motor carrier, ~~shall~~
20 must at all times be subject to examination by the
21 commission or by any authorized agent or employee of the
22 commission. The commission shall prescribe a uniform system
23 of accounts and uniform reports covering the operations of
24 such Class A, Class B, Class C, and Class D, and Class E
25 motor carriers, and every motor carrier authorized to

operate ~~as-such~~ in accordance with the provisions of this chapter shall keep its records, books, and accounts according to such the uniform system, insofar as possible.

(2) Before April 1 of each year, unless this deadline has been extended for good cause by the commission, every motor carrier authorized to engage in ~~such~~ business shall file with the commission a report, under oath, on a form prescribed and furnished by the commission. Those carriers filing an annual report with the interstate commerce commission shall, in addition to filing the report prescribed by the public service commission, submit to the public service commission a copy of the annual report filed with the interstate commerce commission. In addition to ~~such~~ annual reports every motor carrier shall prepare and file with the commission, at the time or times and in the form to be prescribed by the commission, annual reports, special reports, and statements giving to the commission ~~such~~ information ~~as it shall-require~~ requires in order to perform its duties under this chapter.

(3) In addition to other reporting requirements, the commission shall require the holder of a Class D motor carrier certificate to provide sufficient information to show that the carrier is entitled to possess the Class D motor carrier certificate under the requirements of 69-12-314.

(4) In addition to other reporting requirements, the commission shall require the holder of a Class E motor carrier certificate to demonstrate that the carrier is entitled to possess the Class E motor certificate under the requirements of [section 6]."

Section 14. Section 69-12-501, MCA, is amended to read:

"69-12-501. Rate schedules to be maintained. (1) Every Class A, or Class B, or Class E motor carrier holding a certificate must maintain on file with the commission a full and complete schedule of its rates, fares, charges, classifications, and rules of service and any and all tariff provisions relating to such the rates, fares, charges, classifications, or rules. ~~Every--schedule--on--file--and approved-on-March-77-19617-shall-remain-in--full--force--and effect-until-changed-or-modified-by-the-commission-or-by-the carrier-with-the-approval-of-the-commission.~~

(2) No A change, modification, alteration, increase, or decrease in any rate, fare, charge, classification, or rule of service ~~shall may not~~ be made by any motor carrier without first obtaining the approval of the commission. The commission shall prescribe rules providing for the form and style of all schedules and tariffs and for the procedures to be followed in filing or publishing any changes or modifications of the same schedules and tariffs."

Section 15. Section 69-12-502, MCA, is amended to read:

"69-12-502. Prohibition on deviation from rate schedules -- ~~exception. it shall be~~ Except as provided in 69-12-201(4), it is unlawful for any Class A, or Class B, or Class E motor carrier to charge, demand, receive, or collect any greater or less rate, charge, or fare than that fixed by the commission for the transportation service provided. When ~~Except as provided in 69-12-201(4), when~~ maximum or minimum rates have been established for any service provided by any Class C or Class E motor carrier, it ~~shall--likewise--be~~ is unlawful for such the carrier to charge, demand, receive, or collect any greater compensation or rate than that established for the service by any applicable maximum rate or any less compensation or rate than that established by any applicable minimum rate. It ~~also shall be~~ is unlawful for any Class A or Class B motor carrier or any Class C or Class E motor carrier subject to maximum or minimum rates to refund or remit, in any manner or by any device, any portion of the rates, fares, and charges required to be collected under the schedule of the Class A, or Class B, or Class E motor carrier on file with the commission or under the maximum or minimum rates established by the commission for the Class C or Class E motor carrier."

Section 16. Section 69-12-611, MCA, is amended to read:

"69-12-611. Leasing of power equipment. (1) All Class A, Class B, Class C, and Class D, and Class E motor carriers

subject to the jurisdiction of the commission may lease power equipment for the purpose of performing transportation movements within the state. The leasing of such power units must be in writing.

(2) All leases must contain:

(a) the full names and addresses of negotiating parties;

(b) a complete description of each vehicle involved;

(c) a provision that the sole possession, responsibility, control, and direction of each vehicle resides with the lessee for the entire term of the lease;

(d) a provision that the lessee assumes full responsibility for all regulatory fees;

(e) the amount of compensation to be paid for use of the vehicle while under the lease and the method by which such the compensation is determined;

(f) the renewal conditions of the lease, if any; and

(g) the term length of the lease.

(3) A copy of the lease must be maintained in each leased vehicle at all times. Each leased power unit so leased must display in a conspicuous place on both sides of such the vehicle the identity and address of the lessor and lessee and the certificate number under which the power unit is operating.

(4) The leasing of power units by an authorized carrier

LC 0296/01

1 to a noncertificated carrier is prohibited."

2 NEW SECTION. **Section 17.** Codification instruction.

3 [Sections 6 through 10] are intended to be codified as an
4 integral part of Title 69, chapter 12, part 3, and the
5 provisions of Title 69, chapter 12, part 3, apply to
6 [sections 6 through 10].

7 NEW SECTION. **Section 18.** Effective dates --

8 termination. (1) [Sections 1 and 3 through 18] are effective
9 on passage and approval.

10 (2) [Section 2] is effective January 1, 1992.

11 (3) [Section 9] terminates October 1, 1992.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0192, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act to include the transportation of logs as a regulated commodity under the laws related to motor carriers; to establish a new class E motor carrier classification for transporting logs; providing qualifications for certain of class E motor carriers; providing for class E motor carrier rates, contract provisions, and contract forms; amending existing statutes; and providing effective dates and a termination date.

ASSUMPTIONS:

1. Approximately 500 carriers would apply for the proposed Class E permits. Carriers engaged in transporting logs prior to October 1, 1991, will automatically receive a Class E permit.
2. Carriers engaged in transporting logs prior to October 1, 1991, will not pay a filling fee. The Public Service Commission predicts new log applications would not be approved for at least two years due to the difficulty in establishing public need for additional log haulers.
3. The provisions will require a 1.00 FTE administrative assistant at grade 10/step 2 and a 1.00 FTE compliance specialist at grade 12/step 2. The compliance specialist will travel approximately 1,560 hours per year.
4. Fees levied on regulated companies by the PSC are deposited to the general fund and distributed through the general fund pursuant to 69-1-402, MCA. There will be adequate fee revenue under current law to cover the total expenditures for this proposed law.
5. Therefore, the vehicle ID stamps revenue of \$2,500 each year (\$5 per vehicle x 500 vehicles) and the annual report fee at \$25 per carrier of \$12,500 in FY93 and future years will be a net increase for the general fund.

FISCAL IMPACT:Public Service Regulation:

	FY 92			FY 93		
<u>Expenditures:</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
FTE	0.00	2.00	2.00	0.00	2.00	2.00
Personal Services	0	41,985	41,985	0	43,035	43,035
Operating Expenses	0	8,108	8,108	0	8,108	8,108
Equipment	0	8,200	8,200	0	0	0
Total	0	58,283	58,283	0	51,143	51,143
<u>Funding:</u>						
General Fund	0	58,283	58,283	0	51,143	51,143
<u>Revenues:</u>						
Vehicle ID Stamp Fees (01)	0	0	0	0	2,500	2,500
Annual Report Fees (01)	0	0	0	0	15,000	15,000
PSC Tax (01)	0	58,283	58,283	0	51,143	51,143
Total	0	58,283	58,283	0	68,643	68,643

Net General Fund Impact

17,500


 ROD SUNDSTED BUDGET DIRECTOR
 Office of Budget and Program Planning

DATE

2-14-91


 DAVID E. WANZENRIED, PRIMARY SPONSOR

DATE

2-15-91

Fiscal Note for HB0192, as introduced

HB 192

APPROVED BY COMMITTEE
ON HIGHWAYS & TRANSPORTATION

1 HOUSE BILL NO. 192
2 INTRODUCED BY UNRECORDED Peterson of Danell
3 Thompson
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO INCLUDE THE
5 TRANSPORTATION OF LOGS AS A REGULATED COMMODITY UNDER THE
6 LAWS RELATED TO MOTOR CARRIERS; TO ESTABLISH A NEW CLASS E
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15 (6)(7) "Motor carrier" means a person or corporation,
16 or its lessees, trustees, or receivers appointed by any
17 court, operating motor vehicles upon any public highway in
18 this state for the transportation of persons or property for
19 hire on a commercial basis, either as a common carrier or
20 under private contract, agreement, charter, or undertaking.
21 The term includes any motor carrier serving the public in
22 the business of transportation of ashes, trash, waste,
23 refuse, rubbish, garbage, and organic and inorganic matter.

24 (7)(8) "Motor vehicle" includes vehicles or machines,
25 motor trucks, tractors, or other self-propelled vehicles

1 used for the transportation of property or persons over the
2 public highways of the state.

3 {8}(9) "Person" means an individual, firm, or
4 partnership.

5 {9}(10) "Public highway" means a public street, road,
6 highway, or way in this state.

7 {10}(11) "Railroad" means the movement of cars on rails,
8 regardless of the motive power used."

9 **Section 2.** Section 69-12-102, MCA, is amended to read:

10 "69-12-102. Scope of chapter -- exemptions. (1) This
11 chapter does not affect:

12 (a) motor vehicles used in carrying property consisting
13 of agricultural commodities other than logs (not including
14 manufactured products thereof of agricultural commodities)
15 if the motor vehicles are not used in carrying other
16 property or passengers for compensation;

17 (b) the operation of school buses which are used in
18 conveying pupils or other students enrolled in classes to
19 and from district or other schools or in transportation
20 movements related to school activities which are sponsored
21 or supervised by school authorities;

22 (c) the transportation by means of motor vehicles in
23 the regular course of business of employees, supplies, and
24 materials by a person or corporation engaged exclusively in
25 the construction or maintenance of highways or engaged

1 exclusively in logging or mining operations, insofar as the
2 use of employees, supplies, and materials in construction
3 and production is concerned;

4 (d) the transportation of property by motor vehicle in
5 a city, town, or village with a population of less than 500
6 persons according to the latest United States census or in
7 the commercial areas thereof, as determined by the
8 commission;

9 (e) the transportation of newspapers, newspaper
10 supplements, periodicals, or magazines;

11 (f) tow trucks and wreckers designed and exclusively
12 used in towing abandoned, wrecked, or disabled vehicles or
13 while these tow trucks and wreckers are rendering assistance
14 to abandoned, wrecked, or disabled vehicles;

15 (g) motor vehicles used exclusively in carrying junk
16 vehicles from a collection point to a motor vehicle wrecking
17 facility or a motor vehicle graveyard;

18 (h) ambulances;

19 (i) the transportation of pit run or processed sand and
20 gravel, concrete mix, aggregate, plant mix asphalt pavement,
21 aggregate mix, dirt, rock, material from demolished
22 buildings and structures, used paving materials, used
23 concrete, broken concrete, riprap, and other forms and types
24 of materials transported solely for the purpose of
25 excavation or fill;

(j) the transportation by motor vehicle of not more than 15 passengers between their places of residence or termini near their residences and their places of employment in a single daily round trip if the driver is also on his way to or from his place of employment;

(k) the transportation of property by motor carrier as part of a continuous movement if such property, prior or subsequent to such part of a continuous movement, has been or will be transported by an air carrier;

(l) the operation of:

(i) a transportation system by a municipality or transportation district as provided in Title 7, chapter 14, part 2; or

(ii) municipal bus service pursuant to Title 7, chapter 14, part 44;

(m) armored motor vehicles used exclusively for the transportation of coins, currency, silver bullion, gold bullion, and other precious metals, precious stones, valuable paintings, and other items of unusual value requiring special handling and security; or

(n) the transportation of a commodity under an agreement between a motor carrier and an office or agency of the United States government.

(2) This chapter does not prevent bona fide leases, brokerage agreements, or buy-and-sell agreements."

Section 3. Section 69-12-201, MCA, is amended to read:

"69-12-201. Supervision and regulation of motor carriers. (1) The commission ~~is hereby vested with~~ has the power and authority and it is ~~hereby made~~ its duty to:

(a) supervise and regulate every motor carrier in this state;

(b) fix, alter, regulate, and determine specific, just, reasonable, equal, nondiscriminatory, and sufficient rates, fares, charges, and classifications for Class A, and Class B, and Class E motor carriers;

(c) regulate the properties, facilities, operations, accounts, service, practices, and affairs of all motor carriers;

(d) require the filing of annual and other reports, tariffs, schedules, or other data by such motor carriers;

(e) supervise and regulate motor carriers in all matters affecting the relationship between such motor carriers and the traveling and shipping public.

(2) The commission ~~shall have power and authority may,~~ by general order or otherwise, to prescribe rules in conformity with this chapter and applicable to any and all motor carriers.

(3) The commission also may fix and determine reasonable maximum or minimum rates for the operations of any Class C motor carrier when ~~the same~~ rates are required

for the best interests of public transportation.

(4) The commission may fix and determine reasonable maximum or minimum rates for the operations of any Class E motor carrier operating under contract when rates are required for the best interests of public transportation. For purposes of this subsection, a contract rate of not less than 90% of the carrier's approved tariff rate is considered a reasonable rate. However, upon good cause shown by the carrier, the commission may approve a minimum rate that is less than 90% of the carrier's approved tariff rate.

Section 4. Section 69-12-205, MCA, is amended to read:

"69-12-205. Rules to reflect differences between carrier classes. All rules in relation to schedules, service, tariffs, rates, facilities, accounts, and reports ~~shall~~ must have due regard for the differences existing between Class A, Class B, Class C, and Class D, and Class E motor carriers, as ~~herein~~ defined in this chapter, and ~~shall~~ must be just, fair, and reasonable to the ~~said~~ classes of motor carriers in their relations to each other and to the public. In fixing the tariff or rates to be charged by Class A, and Class B, and Class E motor carriers for the carrying of persons ~~and/or~~ or property, or both, the commission shall take into consideration the kind and character of service to be performed, the public necessity ~~therefor~~ of the service, and the effect of ~~such~~ the tariff and rates upon other

transportation agencies, if any, and shall, as far as possible, avoid detrimental or unreasonable competition with existing railroad service or service furnished by a motor carrier."

Section 5. Section 69-12-301, MCA, is amended to read:

"69-12-301. Classification of motor carriers. (1) Motor carriers are hereby divided into ~~four~~ five classes to be known as:

- (a) Class A motor carriers;
- (b) Class B motor carriers;
- (c) Class C motor carriers;
- (d) Class D motor carriers; and
- (e) Class E motor carriers.

(2) Class A motor carriers ~~shall--embrace~~ include all motor carriers operating between fixed termini or over a regular route and under regular rates or charges, based upon either station-to-station rates or upon a mileage rate or scale.

(3) Class B motor carriers ~~shall--embrace~~ include all motor carriers operating under regular rates or charges based upon either station-to-station rates or upon a mileage rate or scale and not between fixed termini or over a regular route.

(4) Class C motor carriers ~~shall--embrace~~ include all motor carriers operating motor vehicles for distributing,

delivering, or collecting wares, merchandise, or commodities or transporting persons, where the remuneration is fixed in and the transportation service furnished under a contract, charter, agreement, or undertaking.

(5) Class D motor carriers embraces include all motor carriers operating motor vehicles transporting (including pickup and disposal) ashes, trash, waste, refuse, rubbish, garbage, and organic and inorganic matter.

(6) Class E motor carriers include all motor carriers operating motor vehicles transporting logs."

NEW SECTION. Section 6. Class E motor carrier certificate. (1) Class E motor carriers shall conduct operations pursuant to a certificate of public convenience and necessity issued by the commission authorizing the transportation of logs. Class E motor carriers, when applying for new or additional authority, shall file an application with the commission in accordance with the requirements of this chapter and the rules of the commission.

(2) A motor carrier may not possess a Class E motor carrier certificate or operate as a Class E motor carrier unless the motor carrier actually engages in the transportation of logs on a regular basis as part of the motor carrier's usual business operation.

NEW SECTION. Section 7. Contracts for transportation

of logs by Class E motor carriers -- determination of rates -- penalty. (1) A person or corporation proposing to contract with a Class E motor carrier for the intrastate transportation of logs shall at the time of the initial contact regarding a specific job inform the carrier of the time of payment and of any special conditions connected with the job. Before the carrier picks up the load, the information required under subsection (2) must be furnished in writing to the carrier on a form developed by the commission or on a form containing the same information provided by the person proposing the contract.

(2) Class E motor carriers may not operate with more than two contracts in effect at one time. Class E motor carrier contracts must be in writing and must be in effect for a minimum of 30 days. The commission shall by rule prescribe the provisions it determines are necessary for Class E motor carrier contracts, including but not limited to the rate to be charged and its method of calculation, the time and method of payment, any special conditions of loading or routes demanded by the shippers, and the time of performance.

(3) A person, corporation, or motor carrier violating this section or a provision of a contract described in this section is subject to a civil penalty, to be collected and deposited in the general fund by the commission after notice

1 and hearing, in an amount not less than \$25 or more than
2 \$500 for the first violation and not less than \$25 or more
3 than \$1,000 for each subsequent violation.

4 NEW SECTION. Section 8. Form for contracts for
5 transportation of logs. The commission shall develop a form
6 that may be used by persons contracting with Class E motor
7 carriers as provided in [section 7]. The form must include
8 space for noting the rate and time of payment and for
9 listing any special conditions that may be included in the
10 contract. The commission shall make the forms available to
11 persons proposing to contract with a Class E motor carrier.

12 NEW SECTION. Section 9. Class E motor carrier
13 certificates for existing log transportation businesses. For
14 the period between October 1, 1991, and October 1, 1992, a
15 person or corporation engaged in the business of
16 transporting logs in Montana at any time between April 1,
17 1990, and October 1, 1991, is not subject to [section 6(1)]
18 and must be granted a statewide Class E motor carrier
19 certificate upon applying to the commission and submitting
20 proof that the person was engaged in transporting logs
21 between April 1, 1990, and October 1, 1991. The commission
22 shall develop and make available the necessary forms.

23 NEW SECTION. Section 10. Transportation of logs under
24 Class E authority only. A Class A, Class B, Class C, or
25 Class D motor carrier may not transport logs without first

1 obtaining Class E authority.

2 **Section 11.** Section 69-12-321, MCA, is amended to read:

3 "69-12-321. Hearing on application for motor carrier
4 certificate. (1) Upon the filing of such an application by a
5 Class A, Class B, Class C, or Class D, or Class E motor
6 carrier, except a Class C motor carrier authorized to
7 operate under the terms of a contract as provided in
8 69-12-324, or upon the filing of a request for a transfer of
9 authority, the commission shall give notice thereof of the
10 filing of the application to any interested party. The
11 commission shall fix a time and place for a hearing thereon
12 on the application whenever a protest or a request for a
13 hearing is received. The hearing ~~is to~~ must be set for a
14 date not later than 60 days after receipt of a protest or a
15 hearing request by the commission. Whenever no protests or
16 hearing requests are received, the commission may act on the
17 application without a hearing as prescribed by commission
18 rules.

19 (2) Any A motor carrier referred to in 69-12-322, the
20 department of highways, the governing board or boards of any
21 such county, town, or city into or through which the route
22 or service as proposed may extend, and any person or
23 corporation concerned are ~~hereby-declared-to--be~~ interested
24 parties to the proceedings and may offer testimony for or
25 against the granting of the certificate.

1 (3) The contracting parties referred to in 69-12-313(4)
2 must appear and offer testimony in support of the applicant.

3 (4) However, an application by a Class A, Class B,
4 Class C, or Class D, or Class E motor carrier for a
5 certificate may be disallowed without a public hearing
6 thereon when it appears from the records of the commission
7 that the route or territory sought to be served by the
8 applicant has previously been made the basis of a public
9 investigation and finding by the commission that public
10 convenience and necessity do not require the proposed motor
11 carrier service unless it is made to affirmatively appear in
12 the application by a recital of the facts that conditions
13 obtaining over the route or in the territory and affecting
14 transportation facilities therein have materially changed
15 since said the previous public investigation and finding and
16 that public convenience and necessity do now require the
17 motor carrier operation."

18 **Section 12.** Section 69-12-322, MCA, is amended to read:

19 "69-12-322. Notice of hearing. (1) Whenever a hearing
20 is scheduled, whether as a result of a protest or request or
21 upon the commission's own motion, the commission shall cause
22 a copy of the petition and notice of hearing thereon to be
23 served upon an officer or owner of any motor carrier that in
24 the opinion of the commission might be affected by the
25 granting of any--such the certificate and shall notify any

1 other affected party at least 10 days before the date of
2 hearing.

3 (2) Notice of such the hearing shall must be published:

4 (a) in the legal advertising section of a local
5 newspaper or newspapers deemed determined by the commission
6 to have a circulation sufficient to reach the consuming
7 public in the area under consideration for applications for
8 Class C or Class E authority and geographically limited
9 Class B authority; and

10 (b) in appropriate newspapers deemed determined by the
11 commission to have sufficient statewide circulation in the
12 case of applications for Class A authority and
13 geographically broad contemplated Class B authority."

14 **Section 13.** Section 69-12-407, MCA, is amended to read:

15 "69-12-407. Records and reports. (1) All records,
16 books, accounts, and files of every Class A, Class B, Class
17 C, and Class D, and Class E motor carrier in this state, so
18 far as the--same--shall they relate to the business of
19 transportation conducted by such the motor carrier, shall
20 must at all times be subject to examination by the
21 commission or by any authorized agent or employee of the
22 commission. The commission shall prescribe a uniform system
23 of accounts and uniform reports covering the operations of
24 such Class A, Class B, Class C, and Class D, and Class E
25 motor carriers, and every motor carrier authorized to

1 operate ~~as-such~~ in accordance with the provisions of this
2 chapter shall keep its records, books, and accounts
3 according to such the uniform system, insofar as possible.

4 (2) Before April 1 of each year, unless this deadline
5 has been extended for good cause by the commission, every
6 motor carrier authorized to engage in such business shall
7 file with the commission a report, under oath, on a form
8 prescribed and furnished by the commission. Those carriers
9 filing an annual report with the interstate commerce
10 commission shall, in addition to filing the report
11 prescribed by the public service commission, submit to the
12 public service commission a copy of the annual report filed
13 with the interstate commerce commission. In addition to such
14 annual reports every motor carrier shall prepare and file
15 with the commission, at the time or times and in the form to
16 be prescribed by the commission, annual reports, special
17 reports, and statements giving to the commission such
18 information ~~as it shall-require~~ requires in order to perform
19 its duties under this chapter.

20 (3) In addition to other reporting requirements, the
21 commission shall require the holder of a Class D motor
22 carrier certificate to provide sufficient information to
23 show that the carrier is entitled to possess the Class D
24 motor carrier certificate under the requirements of
25 69-12-314.

1 (4) In addition to other reporting requirements, the
2 commission shall require the holder of a Class E motor
3 carrier certificate to demonstrate that the carrier is
4 entitled to possess the Class E motor certificate under the
5 requirements of [section 6]."

6 **Section 14.** Section 69-12-501, MCA, is amended to read:
7 "69-12-501. Rate schedules to be maintained. (1) Every
8 Class A, or Class B, or Class E motor carrier holding a
9 certificate must maintain on file with the commission a full
10 and complete schedule of its rates, fares, charges,
11 classifications, and rules of service and any and all tariff
12 provisions relating to such the rates, fares, charges,
13 classifications, or rules. ~~Every--schedule--on--file--and~~
14 ~~approved-on-March-77-1967-shall-remain-in--full--force--and~~
15 ~~effect-until-changed-or-modified-by-the-commission-or-by-the~~
16 ~~carrier-with-the-approval-of-the-commission;~~

17 (2) ~~No A~~ change, modification, alteration, increase, or
18 decrease in any rate, fare, charge, classification, or rule
19 of service ~~shall~~ may not be made by any motor carrier
20 without first obtaining the approval of the commission. The
21 commission shall prescribe rules providing for the form and
22 style of all schedules and tariffs and for the procedures to
23 be followed in filing or publishing any changes or
24 modifications of the same schedules and tariffs."

25 **Section 15.** Section 69-12-502, MCA, is amended to read:

1 *69-12-502. Prohibition on deviation from rate
 2 schedules -- exception. It shall be Except as provided in
 3 69-12-201(4), it is unlawful for any Class A, or Class B, or
 4 Class E motor carrier to charge, demand, receive, or collect
 5 any greater or less rate, charge, or fare than that fixed by
 6 the commission for the transportation service provided. When
 7 Except as provided in 69-12-201(4), when maximum or minimum
 8 rates have been established for any service provided by any
 9 Class C or Class E motor carrier, it ~~shall--likewise--be~~ is
 10 unlawful for ~~such the~~ carrier to charge, demand, receive, or
 11 collect any greater compensation or rate than that
 12 established for the service by any applicable maximum rate
 13 or any less compensation or rate than that established by
 14 any applicable minimum rate. It ~~also shall--be~~ is unlawful
 15 for any Class A or Class B motor carrier or any Class C or
 16 Class E motor carrier subject to maximum or minimum rates to
 17 refund or remit, in any manner or by any device, any portion
 18 of the rates, fares, and charges required to be collected
 19 under the schedule of the Class A, or Class B, or Class E
 20 motor carrier on file with the commission or under the
 21 maximum or minimum rates established by the commission for
 22 the Class C or Class E motor carrier."

23 **Section 16.** Section 69-12-611, MCA, is amended to read:

24 *69-12-611. Leasing of power equipment. (1) All Class
 25 A, Class B, Class C, and Class D, and Class E motor carriers

1 subject to the jurisdiction of the commission may lease
 2 power equipment for the purpose of performing transportation
 3 movements within the state. The leasing of such power units
 4 must be in writing.

- 5 (2) All leases must contain:
- 6 (a) the full names and addresses of negotiating
 - 7 parties;
 - 8 (b) a complete description of each vehicle involved;
 - 9 (c) a provision that the sole possession,
 - 10 responsibility, control, and direction of each vehicle
 - 11 resides with the lessee for the entire term of the lease;
 - 12 (d) a provision that the lessee assumes full
 - 13 responsibility for all regulatory fees;
 - 14 (e) the amount of compensation to be paid for use of
 - 15 the vehicle while under the lease and the method by which
 - 16 such the compensation is determined;
 - 17 (f) the renewal conditions of the lease, if any; and
 - 18 (g) the term length of the lease.

19 (3) A copy of the lease must be maintained in each
 20 leased vehicle at all times. Each leased power unit so
 21 leased must display in a conspicuous place on both sides of
 22 such the vehicle the identity and address of the lessor and
 23 lessee and the certificate number under which the power unit
 24 is operating.

25 (4) The leasing of power units by an authorized carrier

LC 0296/01

1 to a noncertificated carrier is prohibited."

2 NEW SECTION. Section 17. Codification instruction.

3 [Sections 6 through 10] are intended to be codified as an
4 integral part of Title 69, chapter 12, part 3, and the
5 provisions of Title 69, chapter 12, part 3, apply to
6 [sections 6 through 10].

7 NEW SECTION. Section 18. Effective dates --

8 termination. (1) [Sections 1 and 3 through 18] are effective
9 on passage and approval.

10 (2) [Section 2] is effective January 1, 1992.

11 (3) [Section 9] terminates October 1, 1992.

-End-

1 *HOUSE* BILL NO. *192*
 2 INTRODUCED BY *undecided Peterson* *of* *Dawson*
 3 *Tough*
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO INCLUDE THE
 5 TRANSPORTATION OF LOGS AS A REGULATED COMMODITY UNDER THE
 6 LAWS RELATED TO MOTOR CARRIERS; TO ESTABLISH A NEW CLASS E
 7 MOTOR CARRIER CLASSIFICATION FOR TRANSPORTING LOGS;
 8 PROVIDING QUALIFICATIONS FOR CERTIFICATION OF CLASS E MOTOR
 9 CARRIERS; PROVIDING FOR CLASS E MOTOR CARRIER RATES,
 10 CONTRACT PROVISIONS, AND CONTRACT FORMS; AMENDING SECTIONS
 11 69-12-101, 69-12-102, 69-12-201, 69-12-205, 69-12-301,
 12 69-12-321, 69-12-322, 69-12-407, 69-12-501, 69-12-502, AND
 13 69-12-611, MCA; AND PROVIDING EFFECTIVE DATES AND A
 14 TERMINATION DATE."

15
 16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

17 **Section 1.** Section 69-12-101, MCA, is amended to read:

18 "69-12-101. Definitions. Unless the context requires
 19 otherwise, in this chapter the following definitions apply:

20 (1) "Between fixed termini" or "over a regular route"
 21 means the termini or route between or over which a motor
 22 carrier usually or ordinarily operates motor vehicles, even
 23 though there may be periodical or irregular departures from
 24 the termini or route.

25 (2) "Certificate" means the certificate of public

1 convenience and necessity issued under this chapter.

2 (3) "Compensation" means the charge imposed on motor
 3 carriers for the use of the highways in this state by motor
 4 carriers under 69-12-421.

5 (4) "Corporation" means a corporation, company,
 6 association, or joint-stock association.

7 (5) "For hire" means for remuneration of any kind, paid
 8 or promised, either directly or indirectly, or received or
 9 obtained through leasing, brokering, or buy-and-sell
 10 arrangements from which a remuneration is obtained or
 11 derived for transportation service.

12 (6) "Log" means a fallen or felled tree, delimbed and
 13 cut to length for transportation to a point for storage or
 14 processing.

15 ~~(6)~~(7) "Motor carrier" means a person or corporation,
 16 or its lessees, trustees, or receivers appointed by any
 17 court, operating motor vehicles upon any public highway in
 18 this state for the transportation of persons or property for
 19 hire on a commercial basis, either as a common carrier or
 20 under private contract, agreement, charter, or undertaking.
 21 The term includes any motor carrier serving the public in
 22 the business of transportation of ashes, trash, waste,
 23 refuse, rubbish, garbage, and organic and inorganic matter.

24 ~~(7)~~(8) "Motor vehicle" includes vehicles or machines,
 25 motor trucks, tractors, or other self-propelled vehicles

1 used for the transportation of property or persons over the
2 public highways of the state.

3 ~~(8)~~(9) "Person" means an individual, firm, or
4 partnership.

5 ~~(9)~~(10) "Public highway" means a public street, road,
6 highway, or way in this state.

7 ~~(10)~~(11) "Railroad" means the movement of cars on rails,
8 regardless of the motive power used."

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14 manufactured products thereof of agricultural commodities)
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16 property or passengers for compensation;

17 (b) the operation of school buses which are used in
18 conveying pupils or other students enrolled in classes to
19 and from district or other schools or in transportation
20 movements related to school activities which are sponsored
21 or supervised by school authorities;

22 (c) the transportation by means of motor vehicles in
23 the regular course of business of employees, supplies, and
24 materials by a person or corporation engaged exclusively in
25 the construction or maintenance of highways or engaged

1 exclusively in logging or mining operations, insofar as the
2 use of employees, supplies, and materials in construction
3 and production is concerned;

4 (d) the transportation of property by motor vehicle in
5 a city, town, or village with a population of less than 500
6 persons according to the latest United States census or in
7 the commercial areas thereof, as determined by the
8 commission;

9 (e) the transportation of newspapers, newspaper
10 supplements, periodicals, or magazines;

11 (f) tow trucks and wreckers designed and exclusively
12 used in towing abandoned, wrecked, or disabled vehicles or
13 while these tow trucks and wreckers are rendering assistance
14 to abandoned, wrecked, or disabled vehicles;

15 (g) motor vehicles used exclusively in carrying junk
16 vehicles from a collection point to a motor vehicle wrecking
17 facility or a motor vehicle graveyard;

18 (h) ambulances;

19 (i) the transportation of pit run or processed sand and
20 gravel, concrete mix, aggregate, plant mix asphalt pavement,
21 aggregate mix, dirt, rock, material from demolished
22 buildings and structures, used paving materials, used
23 concrete, broken concrete, riprap, and other forms and types
24 of materials transported solely for the purpose of
25 excavation or fill;

(j) the transportation by motor vehicle of not more than 15 passengers between their places of residence or termini near their residences and their places of employment in a single daily round trip if the driver is also on his way to or from his place of employment;

(k) the transportation of property by motor carrier as part of a continuous movement if such property, prior or subsequent to such part of a continuous movement, has been or will be transported by an air carrier;

(l) the operation of:

(i) a transportation system by a municipality or transportation district as provided in Title 7, chapter 14, part 2; or

(ii) municipal bus service pursuant to Title 7, chapter 14, part 44;

(m) armored motor vehicles used exclusively for the transportation of coins, currency, silver bullion, gold bullion, and other precious metals, precious stones, valuable paintings, and other items of unusual value requiring special handling and security; or

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(c) regulate the properties, facilities, operations, accounts, service, practices, and affairs of all motor carriers;

(d) require the filing of annual and other reports, tariffs, schedules, or other data by such motor carriers;

(e) supervise and regulate motor carriers in all matters affecting the relationship between such motor carriers and the traveling and shipping public.

(2) The commission ~~shall have power and authority~~ may, by general order or otherwise, to prescribe rules in conformity with this chapter and applicable to any and all motor carriers.

(3) The commission ~~also~~ may fix and determine reasonable maximum or minimum rates for the operations of any Class C motor carrier when ~~the same~~ rates are required

1 for the best interests of public transportation.

2 (4) The commission may fix and determine reasonable
 3 maximum or minimum rates for the operations of any Class E
 4 motor carrier operating under contract when rates are
 5 required for the best interests of public transportation.
 6 For purposes of this subsection, a contract rate of not less
 7 than 90% of the carrier's approved tariff rate is considered
 8 a reasonable rate. However, upon good cause shown by the
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 15 ~~shall~~ must have due regard for the differences existing
 16 between Class A, Class B, Class C, and Class D, and Class E
 17 motor carriers, as herein defined in this chapter, and ~~shall~~
 18 must be just, fair, and reasonable to the ~~said~~ classes of
 19 motor carriers in their relations to each other and to the
 20 public. In fixing the tariff or rates to be charged by Class
 21 A, and Class B, and Class E motor carriers for the carrying
 22 of persons ~~and/or~~ or property, or both, the commission shall
 23 take into consideration the kind and character of service to
 24 be performed, the public necessity ~~therefor~~ of the service,
 25 and the effect of such the tariff and rates upon other

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- 12 (d) Class D motor carriers; and
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14 (2) Class A motor carriers ~~shall--embrace~~ include all
 15 motor carriers operating between fixed termini or over a
 16 regular route and under regular rates or charges, based upon
 17 either station-to-station rates or upon a mileage rate or
 18 scale.

19 (3) Class B motor carriers ~~shall--embrace~~ include all
 20 motor carriers operating under regular rates or charges
 21 based upon either station-to-station rates or upon a mileage
 22 rate or scale and not between fixed termini or over a
 23 regular route.

24 (4) Class C motor carriers ~~shall--embrace~~ include all
 25 motor carriers operating motor vehicles for distributing,

1 delivering, or collecting wares, merchandise, or commodities
2 or transporting persons, where the remuneration is fixed in
3 and the transportation service furnished under a contract,
4 charter, agreement, or undertaking.

5 (5) Class D motor carriers embraces include all motor
6 carriers operating motor vehicles transporting (including
7 pickup and disposal) ashes, trash, waste, refuse, rubbish,
8 garbage, and organic and inorganic matter.

9 (6) Class E motor carriers include all motor carriers
10 operating motor vehicles transporting logs."

11 NEW SECTION. Section 6. Class E motor carrier
12 certificate. (1) Class E motor carriers shall conduct
13 operations pursuant to a certificate of public convenience
14 and necessity issued by the commission authorizing the
15 transportation of logs. Class E motor carriers, when
16 applying for new or additional authority, shall file an
17 application with the commission in accordance with the
18 requirements of this chapter and the rules of the
19 commission.

20 (2) A motor carrier may not possess a Class E motor
21 carrier certificate or operate as a Class E motor carrier
22 unless the motor carrier actually engages in the
23 transportation of logs on a regular basis as part of the
24 motor carrier's usual business operation.

25 NEW SECTION. Section 7. Contracts for transportation

1 of logs by Class E motor carriers -- determination of rates
2 -- penalty. (1) A person or corporation proposing to
3 contract with a Class E motor carrier for the intrastate
4 transportation of logs shall at the time of the initial
5 contact regarding a specific job inform the carrier of the
6 time of payment and of any special conditions connected with
7 the job. Before the carrier picks up the load, the
8 information required under subsection (2) must be furnished
9 in writing to the carrier on a form developed by the
10 commission or on a form containing the same information
11 provided by the person proposing the contract.

12 (2) Class E motor carriers may not operate with more
13 than two contracts in effect at one time. Class E motor
14 carrier contracts must be in writing and must be in effect
15 for a minimum of 30 days. The commission shall by rule
16 prescribe the provisions it determines are necessary for
17 Class E motor carrier contracts, including but not limited
18 to the rate to be charged and its method of calculation, the
19 time and method of payment, any special conditions of
20 loading or routes demanded by the shippers, and the time of
21 performance.

22 (3) A person, corporation, or motor carrier violating
23 this section or a provision of a contract described in this
24 section is subject to a civil penalty, to be collected and
25 deposited in the general fund by the commission after notice

1 and hearing, in an amount not less than \$25 or more than
2 \$500 for the first violation and not less than \$25 or more
3 than \$1,000 for each subsequent violation.

4 NEW SECTION. Section 8. Form for contracts for
5 transportation of logs. The commission shall develop a form
6 that may be used by persons contracting with Class E motor
7 carriers as provided in [section 7]. The form must include
8 space for noting the rate and time of payment and for
9 listing any special conditions that may be included in the
10 contract. The commission shall make the forms available to
11 persons proposing to contract with a Class E motor carrier.

12 NEW SECTION. Section 9. Class E motor carrier
13 certificates for existing log transportation businesses. For
14 the period between October 1, 1991, and October 1, 1992, a
15 person or corporation engaged in the business of
16 transporting logs in Montana at any time between April 1,
17 1990, and October 1, 1991, is not subject to [section 6(1)]
18 and must be granted a statewide Class E motor carrier
19 certificate upon applying to the commission and submitting
20 proof that the person was engaged in transporting logs
21 between April 1, 1990, and October 1, 1991. The commission
22 shall develop and make available the necessary forms.

23 NEW SECTION. Section 10. Transportation of logs under
24 Class E authority only. A Class A, Class B, Class C, or
25 Class D motor carrier may not transport logs without first

1 obtaining Class E authority.

2 **Section 11.** Section 69-12-321, MCA, is amended to read:

3 "69-12-321. Hearing on application for motor carrier
4 certificate. (1) Upon the filing of such an application by a
5 Class A, Class B, Class C, or Class D, or Class E motor
6 carrier, except a Class C motor carrier authorized to
7 operate under the terms of a contract as provided in
8 69-12-324, or upon the filing of a request for a transfer of
9 authority, the commission shall give notice thereof of the
10 filing of the application to any interested party. The
11 commission shall fix a time and place for a hearing thereon
12 on the application whenever a protest or a request for a
13 hearing is received. The hearing ~~is to~~ must be set for a
14 date not later than 60 days after receipt of a protest or a
15 hearing request by the commission. Whenever no protests or
16 hearing requests are received, the commission may act on the
17 application without a hearing as prescribed by commission
18 rules.

19 (2) Any A motor carrier referred to in 69-12-322, the
20 department of highways, the governing board or boards of any
21 such county, town, or city into or through which the route
22 or service as proposed may extend, and any person or
23 corporation concerned are ~~hereby-declared-to-be~~ interested
24 parties to the proceedings and may offer testimony for or
25 against the granting of the certificate.

1 (3) The contracting parties referred to in 69-12-313(4)
 2 must appear and offer testimony in support of the applicant.
 3 (4) However, an application by a Class A, Class B,
 4 Class C, or Class D, or Class E motor carrier for a
 5 certificate may be disallowed without a public hearing
 6 thereon when it appears from the records of the commission
 7 that the route or territory sought to be served by the
 8 applicant has previously been made the basis of a public
 9 investigation and finding by the commission that public
 10 convenience and necessity do not require the proposed motor
 11 carrier service unless it is made to affirmatively appear in
 12 the application by a recital of the facts that conditions
 13 obtaining over the route or in the territory and affecting
 14 transportation facilities therein have materially changed
 15 since said the previous public investigation and finding and
 16 that public convenience and necessity do now require the
 17 motor carrier operation."

18 **Section 12.** Section 69-12-322, MCA, is amended to read:

19 "69-12-322. Notice of hearing. (1) Whenever a hearing
 20 is scheduled, whether as a result of a protest or request or
 21 upon the commission's own motion, the commission shall cause
 22 a copy of the petition and notice of hearing thereon to be
 23 served upon an officer or owner of any motor carrier that in
 24 the opinion of the commission might be affected by the
 25 granting of any--such the certificate and shall notify any

1 other affected party at least 10 days before the date of
 2 hearing.

3 (2) Notice of such the hearing shall must be published:

4 (a) in the legal advertising section of a local
 5 newspaper or newspapers deemed determined by the commission
 6 to have a circulation sufficient to reach the consuming
 7 public in the area under consideration for applications for
 8 Class C or Class E authority and geographically limited
 9 Class B authority; and

10 (b) in appropriate newspapers deemed determined by the
 11 commission to have sufficient statewide circulation in the
 12 case of applications for Class A authority and
 13 geographically broad contemplated Class B authority."

14 **Section 13.** Section 69-12-407, MCA, is amended to read:

15 "69-12-407. Records and reports. (1) All records,
 16 books, accounts, and files of every Class A, Class B, Class
 17 C, and Class D, and Class E motor carrier in this state, so
 18 far as the--same--shall they relate to the business of
 19 transportation conducted by such the motor carrier, shall
 20 must at all times be subject to examination by the
 21 commission or by any authorized agent or employee of the
 22 commission. The commission shall prescribe a uniform system
 23 of accounts and uniform reports covering the operations of
 24 such Class A, Class B, Class C, and Class D, and Class E
 25 motor carriers, and every motor carrier authorized to

operate ~~as such~~ in accordance with the provisions of this chapter shall keep its records, books, and accounts according to such the uniform system, insofar as possible.

(2) Before April 1 of each year, unless this deadline has been extended for good cause by the commission, every motor carrier authorized to engage in ~~such~~ business shall file with the commission a report, under oath, on a form prescribed and furnished by the commission. Those carriers filing an annual report with the interstate commerce commission shall, in addition to filing the report prescribed by the public service commission, submit to the public service commission a copy of the annual report filed with the interstate commerce commission. In addition to ~~such~~ annual reports every motor carrier shall prepare and file with the commission, at the time or times and in the form to be prescribed by the commission, annual reports, special reports, and statements giving to the commission ~~such~~ information as it ~~shall require~~ requires in order to perform its duties under this chapter.

(3) In addition to other reporting requirements, the commission shall require the holder of a Class D motor carrier certificate to provide sufficient information to show that the carrier is entitled to possess the Class D motor carrier certificate under the requirements of 69-12-314.

(4) In addition to other reporting requirements, the commission shall require the holder of a Class E motor carrier certificate to demonstrate that the carrier is entitled to possess the Class E motor certificate under the requirements of [section 6]."

Section 14. Section 69-12-501, MCA, is amended to read:

"69-12-501. Rate schedules to be maintained. (1) Every Class A, or Class B, or Class E motor carrier holding a certificate must maintain on file with the commission a full and complete schedule of its rates, fares, charges, classifications, and rules of service and any and all tariff provisions relating to such the rates, fares, charges, classifications, or rules. ~~Every--schedule--on--file--and approved--on--March--77--1967--shall--remain--in--full--force--and effect--until--changed--or--modified--by--the--commission--or--by--the carrier--with--the--approval--of--the--commission.~~

(2) No A change, modification, alteration, increase, or decrease in any rate, fare, charge, classification, or rule of service ~~shall~~ may not be made by any motor carrier without first obtaining the approval of the commission. The commission shall prescribe rules providing for the form and style of all schedules and tariffs and for the procedures to be followed in filing or publishing any changes or modifications of the same schedules and tariffs."

Section 15. Section 69-12-502, MCA, is amended to read:

1 "69-12-502. Prohibition on deviation from rate
 2 schedules -- exception. ~~It shall be~~ Except as provided in
 3 69-12-201(4), it is unlawful for any Class A, or Class B, or
 4 Class E motor carrier to charge, demand, receive, or collect
 5 any greater or less rate, charge, or fare than that fixed by
 6 the commission for the transportation service provided. When
 7 Except as provided in 69-12-201(4), when maximum or minimum
 8 rates have been established for any service provided by any
 9 Class C or Class E motor carrier, it ~~shall--likewise--be~~ is
 10 unlawful for ~~such the~~ carrier to charge, demand, receive, or
 11 collect any greater compensation or rate than that
 12 established for the service by any applicable maximum rate
 13 or any less compensation or rate than that established by
 14 any applicable minimum rate. It ~~also shall--be~~ is unlawful
 15 for any Class A or Class B motor carrier or any Class C or
 16 Class E motor carrier subject to maximum or minimum rates to
 17 refund or remit, in any manner or by any device, any portion
 18 of the rates, fares, and charges required to be collected
 19 under the schedule of the Class A, or Class B, or Class E
 20 motor carrier on file with the commission or under the
 21 maximum or minimum rates established by the commission for
 22 the Class C or Class E motor carrier."

23 Section 16. Section 69-12-611, MCA, is amended to read:

24 "69-12-611. Leasing of power equipment. (1) All Class
 25 A, Class B, Class C, and Class D, and Class E motor carriers

1 subject to the jurisdiction of the commission may lease
 2 power equipment for the purpose of performing transportation
 3 movements within the state. The leasing of such power units
 4 must be in writing.

5 (2) All leases must contain:

6 (a) the full names and addresses of negotiating
 7 parties;

8 (b) a complete description of each vehicle involved;

9 (c) a provision that the sole possession,
 10 responsibility, control, and direction of each vehicle
 11 resides with the lessee for the entire term of the lease;

12 (d) a provision that the lessee assumes full
 13 responsibility for all regulatory fees;

14 (e) the amount of compensation to be paid for use of
 15 the vehicle while under the lease and the method by which
 16 such the compensation is determined;

17 (f) the renewal conditions of the lease, if any; and

18 (g) the term length of the lease.

19 (3) A copy of the lease must be maintained in each
 20 leased vehicle at all times. Each leased power unit so
 21 leased must display in a conspicuous place on both sides of
 22 such the vehicle the identity and address of the lessor and
 23 lessee and the certificate number under which the power unit
 24 is operating.

25 (4) The leasing of power units by an authorized carrier

1 to a noncertificated carrier is prohibited."

2 NEW SECTION. Section 17. Codification instruction.

3 [Sections 6 through 10] are intended to be codified as an
4 integral part of Title 69, chapter 12, part 3, and the
5 provisions of Title 69, chapter 12, part 3, apply to
6 [sections 6 through 10].

7 NEW SECTION. Section 18. Effective dates --

8 termination. (1) [Sections 1 and 3 through 18] are effective
9 on passage and approval.

10 (2) [Section 2] is effective January 1, 1992.

11 (3) [Section 9] terminates October 1, 1992.

-End-

SENATE STANDING COMMITTEE REPORT

Page 1 of 2
March 28, 1991

Page 2 of 2
March 28, 1991

MR. PRESIDENT:

We, your committee on Highways and Transportation having had under consideration House Bill No. 192 (third reading copy -- blue), respectfully report that House Bill No. 192 be amended and as so amended be concurred in:

1. Title, line 9.
Strike: "RATES,"

2. Title, line 10.
Following: "PROVISIONS"
Strike: ", "

3. Title, line 12.
Strike: "69-12-501, 69-12-502,"

4. Page 6, line 9.
Following: "A"
Strike: "1"
Following: "and"
Insert: "and"

5. Page 6, line 10.
Following: "B"
Strike: ", and Class E"

6. Page 7, lines 6 through 10.
Following: line 5
Strike: lines 6 through 10 in their entirety

7. Page 7, line 21.
Following: "A"
Strike: "1"
Following: "and"
Insert: "and"
Following: "B"
Strike: ", and Class E"

8. Page 9, line 10.

Following: "logs"

Insert: "if the remuneration is fixed in and transportation services are furnished under a written contract or agreement"

9. Page 10, lines 12 through 15.

Following: "(2)" on line 12

Strike: remainder of line 12 through "days." on line 15

10. Page 16, line 6 through page 17, line 22.

Strike: sections 14 and 15 in their entirety

Renumber: subsequent sections

Signed: _____

Cecil Weeding
Cecil Weeding, Chairman

3/28/91
And. Coord.

SB 3/28 12:10
Sec. of Senate

1 HOUSE BILL NO. 192

2 INTRODUCED BY WANZENRIED, PETERSON, COHEN,

3 DOWELL, VAUGHN

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO INCLUDE THE
6 TRANSPORTATION OF LOGS AS A REGULATED COMMODITY UNDER THE
7 LAWS RELATED TO MOTOR CARRIERS; TO ESTABLISH A NEW CLASS E
8 MOTOR CARRIER CLASSIFICATION FOR TRANSPORTING LOGS;
9 PROVIDING QUALIFICATIONS FOR CERTIFICATION OF CLASS E MOTOR
10 CARRIERS; PROVIDING FOR CLASS E MOTOR CARRIER RATES;
11 CONTRACT PROVISIONS; AND CONTRACT FORMS; AMENDING SECTIONS
12 69-12-101, 69-12-102, 69-12-201, 69-12-205, 69-12-301,
13 69-12-321, 69-12-322, 69-12-407, 69-12-501, 69-12-502, AND
14 69-12-611, MCA; AND PROVIDING EFFECTIVE DATES AND A
15 TERMINATION DATE."

16
17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

18 Section 1. Section 69-12-101, MCA, is amended to read:

19 "69-12-101. Definitions. Unless the context requires
20 otherwise, in this chapter the following definitions apply:

21 (1) "Between fixed termini" or "over a regular route"
22 means the termini or route between or over which a motor
23 carrier usually or ordinarily operates motor vehicles, even
24 though there may be periodical or irregular departures from
25 the termini or route.

1 (2) "Certificate" means the certificate of public
2 convenience and necessity issued under this chapter.

3 (3) "Compensation" means the charge imposed on motor
4 carriers for the use of the highways in this state by motor
5 carriers under 69-12-421.

6 (4) "Corporation" means a corporation, company,
7 association, or joint-stock association.

8 (5) "For hire" means for remuneration of any kind, paid
9 or promised, either directly or indirectly, or received or
10 obtained through leasing, brokering, or buy-and-sell
11 arrangements from which a remuneration is obtained or
12 derived for transportation service.

13 (6) "Log" means a fallen or felled tree, delimbed and
14 cut to length for transportation to a point for storage or
15 processing.

16 (7) "Motor carrier" means a person or corporation,
17 or its lessees, trustees, or receivers appointed by any
18 court, operating motor vehicles upon any public highway in
19 this state for the transportation of persons or property for
20 hire on a commercial basis, either as a common carrier or
21 under private contract, agreement, charter, or undertaking.
22 The term includes any motor carrier serving the public in
23 the business of transportation of ashes, trash, waste,
24 refuse, rubbish, garbage, and organic and inorganic matter.

25 (8) "Motor vehicle" includes vehicles or machines,

1 motor trucks, tractors, or other self-propelled vehicles
2 used for the transportation of property or persons over the
3 public highways of the state.

4 ~~(8)~~(9) "Person" means an individual, firm, or
5 partnership.

6 ~~(9)~~(10) "Public highway" means a public street, road,
7 highway, or way in this state.

8 ~~(10)~~(11) "Railroad" means the movement of cars on rails,
9 regardless of the motive power used."

10 **Section 2.** Section 69-12-102, MCA, is amended to read:

11 "69-12-102. Scope of chapter -- exemptions. (1) This
12 chapter does not affect:

13 (a) motor vehicles used in carrying property consisting
14 of agricultural commodities other than logs (not including
15 manufactured products thereof of agricultural commodities)
16 if the motor vehicles are not used in carrying other
17 property or passengers for compensation;

18 (b) the operation of school buses which are used in
19 conveying pupils or other students enrolled in classes to
20 and from district or other schools or in transportation
21 movements related to school activities which are sponsored
22 or supervised by school authorities;

23 (c) the transportation by means of motor vehicles in
24 the regular course of business of employees, supplies, and
25 materials by a person or corporation engaged exclusively in

1 the construction or maintenance of highways or engaged
2 exclusively in logging or mining operations, insofar as the
3 use of employees, supplies, and materials in construction
4 and production is concerned;

5 (d) the transportation of property by motor vehicle in
6 a city, town, or village with a population of less than 500
7 persons according to the latest United States census or in
8 the commercial areas thereof, as determined by the
9 commission;

10 (e) the transportation of newspapers, newspaper
11 supplements, periodicals, or magazines;

12 (f) tow trucks and wreckers designed and exclusively
13 used in towing abandoned, wrecked, or disabled vehicles or
14 while these tow trucks and wreckers are rendering assistance
15 to abandoned, wrecked, or disabled vehicles;

16 (g) motor vehicles used exclusively in carrying junk
17 vehicles from a collection point to a motor vehicle wrecking
18 facility or a motor vehicle graveyard;

19 (h) ambulances;

20 (i) the transportation of pit run or processed sand and
21 gravel, concrete mix, aggregate, plant mix asphalt pavement,
22 aggregate mix, dirt, rock, material from demolished
23 buildings and structures, used paving materials, used
24 concrete, broken concrete, riprap, and other forms and types
25 of materials transported solely for the purpose of

1 excavation or fill;

2 (j) the transportation by motor vehicle of not more
3 than 15 passengers between their places of residence or
4 termini near their residences and their places of employment
5 in a single daily round trip if the driver is also on his
6 way to or from his place of employment;

7 (k) the transportation of property by motor carrier as
8 part of a continuous movement if such property, prior or
9 subsequent to such part of a continuous movement, has been
10 or will be transported by an air carrier;

11 (l) the operation of:

12 (i) a transportation system by a municipality or
13 transportation district as provided in Title 7, chapter 14,
14 part 2; or

15 (ii) municipal bus service pursuant to Title 7, chapter
16 14, part 44;

17 (m) armored motor vehicles used exclusively for the
18 transportation of coins, currency, silver bullion, gold
19 bullion, and other precious metals, precious stones,
20 valuable paintings, and other items of unusual value
21 requiring special handling and security; or

22 (n) the transportation of a commodity under an
23 agreement between a motor carrier and an office or agency of
24 the United States government.

25 (2) This chapter does not prevent bona fide leases,

1 brokerage agreements, or buy-and-sell agreements."

2 **Section 3.** Section 69-12-201, MCA, is amended to read:

3 "69-12-201. Supervision and regulation of motor
4 carriers. (1) The commission ~~is hereby vested with~~ has the
5 power and authority and it is ~~hereby made~~ its duty to:

6 (a) supervise and regulate every motor carrier in this
7 state;

8 (b) fix, alter, regulate, and determine specific, just,
9 reasonable, equal, nondiscriminatory, and sufficient rates,
10 fares, charges, and classifications for Class A₂ and AND
11 Class B₂ ~~and Class E~~ motor carriers;

12 (c) regulate the properties, facilities, operations,
13 accounts, service, practices, and affairs of all motor
14 carriers;

15 (d) require the filing of annual and other reports,
16 tariffs, schedules, or other data by such motor carriers;

17 (e) supervise and regulate motor carriers in all
18 matters affecting the relationship between such motor
19 carriers and the traveling and shipping public.

20 (2) The commission ~~shall have power and authority~~ may,
21 by general order or otherwise, to prescribe rules in
22 conformity with this chapter and applicable to any and all
23 motor carriers.

24 (3) The commission ~~also~~ may fix and determine
25 reasonable maximum or minimum rates for the operations of

any Class C motor carrier when ~~the same~~ rates are required for the best interests of public transportation.

(4) The commission may fix and determine reasonable maximum or minimum rates for the operations of any Class E motor carrier operating under contract when rates are required for the best interests of public transportation. For purposes of this subsection, a contract rate of not less than 90% of the carrier's approved tariff rate is considered a reasonable rate. However, upon good cause shown by the carrier, the commission may approve a minimum rate that is less than 90% of the carrier's approved tariff rate.

Section 4. Section 69-12-205, MCA, is amended to read:

"69-12-205. Rules to reflect differences between carrier classes. All rules in relation to schedules, service, tariffs, rates, facilities, accounts, and reports shall must have due regard for the differences existing between Class A, Class B, Class C, and Class D, and Class E motor carriers, as herein defined in this chapter, and shall must be just, fair, and reasonable to the said classes of motor carriers in their relations to each other and to the public. In fixing the tariff or rates to be charged by Class A and AND Class B and Class E motor carriers for the carrying of persons and/or or property, or both, the commission shall take into consideration the kind and character of service to be performed, the public necessity

therefor of the service, and the effect of such the tariff and rates upon other transportation agencies, if any, and shall, as far as possible, avoid detrimental or unreasonable competition with existing railroad service or service furnished by a motor carrier."

Section 5. Section 69-12-301, MCA, is amended to read:

"69-12-301. Classification of motor carriers. (1) Motor carriers are hereby divided into four five classes to be known as:

- (a) Class A motor carriers;
- (b) Class B motor carriers;
- (c) Class C motor carriers;
- (d) Class D motor carriers; and
- (e) Class E motor carriers.

(2) Class A motor carriers ~~shall embrace~~ include all motor carriers operating between fixed termini or over a regular route and under regular rates or charges, based upon either station-to-station rates or upon a mileage rate or scale.

(3) Class B motor carriers ~~shall embrace~~ include all motor carriers operating under regular rates or charges based upon either station-to-station rates or upon a mileage rate or scale and not between fixed termini or over a regular route.

(4) Class C motor carriers ~~shall embrace~~ include all

1 motor carriers operating motor vehicles for distributing,
2 delivering, or collecting wares, merchandise, or commodities
3 or transporting persons, where the remuneration is fixed in
4 and the transportation service furnished under a contract,
5 charter, agreement, or undertaking.

6 (5) Class D motor carriers embraces include all motor
7 carriers operating motor vehicles transporting (including
8 pickup and disposal) ashes, trash, waste, refuse, rubbish,
9 garbage, and organic and inorganic matter.

10 (6) Class E motor carriers include all motor carriers
11 operating motor vehicles transporting logs IF THE
12 RENUMERATION IS FIXED IN AND TRANSPORTATION SERVICES ARE
13 FURNISHED UNDER A WRITTEN CONTRACT OR AGREEMENT."

14 NEW SECTION. Section 6. Class E motor carrier
15 certificate. (1) Class E motor carriers shall conduct
16 operations pursuant to a certificate of public convenience
17 and necessity issued by the commission authorizing the
18 transportation of logs. Class E motor carriers, when
19 applying for new or additional authority, shall file an
20 application with the commission in accordance with the
21 requirements of this chapter and the rules of the
22 commission.

23 (2) A motor carrier may not possess a Class E motor
24 carrier certificate or operate as a Class E motor carrier
25 unless the motor carrier actually engages in the

1 transportation of logs on a regular basis as part of the
2 motor carrier's usual business operation.

3 NEW SECTION. Section 7. Contracts for transportation
4 of logs by Class E motor carriers -- determination of rates
5 -- penalty. (1) A person or corporation proposing to
6 contract with a Class E motor carrier for the intrastate
7 transportation of logs shall at the time of the initial
8 contact regarding a specific job inform the carrier of the
9 time of payment and of any special conditions connected with
10 the job. Before the carrier picks up the load, the
11 information required under subsection (2) must be furnished
12 in writing to the carrier on a form developed by the
13 commission or on a form containing the same information
14 provided by the person proposing the contract.

15 ~~(2) Class-E-motor-carriers-may-not-operate-with-more~~
16 ~~than-two-contracts-in-effect-at-one-time-Class-E-motor~~
17 ~~carrier-contracts-must-be-in-writing-and-must-be-in-effect~~
18 ~~for-a-minimum-of-30-days.~~ The commission shall by rule
19 prescribe the provisions it determines are necessary for
20 Class E motor carrier contracts, including but not limited
21 to the rate to be charged and its method of calculation, the
22 time and method of payment, any special conditions of
23 loading or routes demanded by the shippers, and the time of
24 performance.

25 (3) A person, corporation, or motor carrier violating

this section or a provision of a contract described in this section is subject to a civil penalty, to be collected and deposited in the general fund by the commission after notice and hearing, in an amount not less than \$25 or more than \$500 for the first violation and not less than \$25 or more than \$1,000 for each subsequent violation.

NEW SECTION. Section 8. Form for contracts for transportation of logs. The commission shall develop a form that may be used by persons contracting with Class E motor carriers as provided in [section 7]. The form must include space for noting the rate and time of payment and for listing any special conditions that may be included in the contract. The commission shall make the forms available to persons proposing to contract with a Class E motor carrier.

NEW SECTION. Section 9. Class E motor carrier certificates for existing log transportation businesses. For the period between October 1, 1991, and October 1, 1992, a person or corporation engaged in the business of transporting logs in Montana at any time between April 1, 1990, and October 1, 1991, is not subject to [section 6(1)] and must be granted a statewide Class E motor carrier certificate upon applying to the commission and submitting proof that the person was engaged in transporting logs between April 1, 1990, and October 1, 1991. The commission shall develop and make available the necessary forms.

NEW SECTION. Section 10. Transportation of logs under Class E authority only. A Class A, Class B, Class C, or Class D motor carrier may not transport logs without first obtaining Class E authority.

Section 11. Section 69-12-321, MCA, is amended to read:

"69-12-321. Hearing on application for motor carrier certificate. (1) Upon the filing of such an application by a Class A, Class B, Class C, or Class D, or Class E motor carrier, except a Class C motor carrier authorized to operate under the terms of a contract as provided in 69-12-324, or upon the filing of a request for a transfer of authority, the commission shall give notice thereof of the filing of the application to any interested party. The commission shall fix a time and place for a hearing thereon on the application whenever a protest or a request for a hearing is received. The hearing ~~is to~~ must be set for a date not later than 60 days after receipt of a protest or a hearing request by the commission. Whenever no protests or hearing requests are received, the commission may act on the application without a hearing as prescribed by commission rules.

(2) Any A motor carrier referred to in 69-12-322, the department of highways, the governing board or boards of any such county, town, or city into or through which the route or service as proposed may extend, and any person or

1 corporation concerned are ~~hereby-declared-to-be~~ interested
2 parties to the proceedings and may offer testimony for or
3 against the granting of the certificate.

4 (3) The contracting parties referred to in 69-12-313(4)
5 must appear and offer testimony in support of the applicant.

6 (4) However, an application by a Class A, Class B,
7 Class C, or Class D, or Class E motor carrier for a
8 certificate may be disallowed without a public hearing
9 thereon when it appears from the records of the commission
10 that the route or territory sought to be served by the
11 applicant has previously been made the basis of a public
12 investigation and finding by the commission that public
13 convenience and necessity do not require the proposed motor
14 carrier service unless it is made to affirmatively appear in
15 the application by a recital of the facts that conditions
16 obtaining over the route or in the territory and affecting
17 transportation facilities therein have materially changed
18 since ~~said~~ the previous public investigation and finding and
19 that public convenience and necessity do now require the
20 motor carrier operation."

21 **Section 12.** Section 69-12-322, MCA, is amended to read:

22 "69-12-322. Notice of hearing. (1) Whenever a hearing
23 is scheduled, whether as a result of a protest or request or
24 upon the commission's own motion, the commission shall cause
25 a copy of the petition and notice of hearing thereon to be

1 served upon an officer or owner of any motor carrier that in
2 the opinion of the commission might be affected by the
3 granting of ~~any--such~~ the certificate and shall notify any
4 other affected party at least 10 days before the date of
5 hearing.

6 (2) Notice of ~~such~~ the hearing shall must be published:

7 (a) in the legal advertising section of a local
8 newspaper or newspapers deemed determined by the commission
9 to have a circulation sufficient to reach the consuming
10 public in the area under consideration for applications for
11 Class C or Class E authority and geographically limited
12 Class B authority; and

13 (b) in appropriate newspapers deemed determined by the
14 commission to have sufficient statewide circulation in the
15 case of applications for Class A authority and
16 geographically broad contemplated Class B authority."

17 **Section 13.** Section 69-12-407, MCA, is amended to read:

18 "69-12-407. Records and reports. (1) All records,
19 books, accounts, and files of every Class A, Class B, Class
20 C, and Class D, and Class E motor carrier in this state, so
21 far as ~~the--same--shall~~ they relate to the business of
22 transportation conducted by ~~such~~ the motor carrier, shall
23 must at all times be subject to examination by the
24 commission or by any authorized agent or employee of the
25 commission. The commission shall prescribe a uniform system

of accounts and uniform reports covering the operations of such Class A, Class B, Class C, and Class D, and Class E motor carriers, and every motor carrier authorized to operate as such in accordance with the provisions of this chapter shall keep its records, books, and accounts according to such the uniform system, insofar as possible.

(2) Before April 1 of each year, unless this deadline has been extended for good cause by the commission, every motor carrier authorized to engage in such business shall file with the commission a report, under oath, on a form prescribed and furnished by the commission. Those carriers filing an annual report with the interstate commerce commission shall, in addition to filing the report prescribed by the public service commission, submit to the public service commission a copy of the annual report filed with the interstate commerce commission. In addition to such annual reports every motor carrier shall prepare and file with the commission, at the time or times and in the form to be prescribed by the commission, annual reports, special reports, and statements giving to the commission such information as it shall require requires in order to perform its duties under this chapter.

(3) In addition to other reporting requirements, the commission shall require the holder of a Class D motor carrier certificate to provide sufficient information to

show that the carrier is entitled to possess the Class D motor carrier certificate under the requirements of 69-12-314.

(4) In addition to other reporting requirements, the commission shall require the holder of a Class E motor carrier certificate to demonstrate that the carrier is entitled to possess the Class E motor certificate under the requirements of [section 6]."

~~Section 14--Section 69-12-501--MCA--is amended to read:~~

~~"69-12-501--Rate schedules to be maintained--(1)--Every Class--A, or Class B, or Class E motor carrier holding a certificate must maintain on file with the commission a full and complete schedule of its rates, fares, charges, classifications, and rules of service and any and all tariff provisions relating to such the rates, fares, charges, classifications, or rules. Every schedule on file and approved on March 7, 1961, shall remain in full force and effect until changed or modified by the commission or by the carrier with the approval of the commission.~~

~~(2)--No change, modification, alteration, increase, or decrease in any rate, fare, charge, classification, or rule of service shall may not be made by any motor carrier without first obtaining the approval of the commission. The commission shall prescribe rules providing for the form and style of all schedules and tariffs and for the procedures to~~

be---followed---in---filing---or---publishing---any---changes---or
modifications-of-the-same schedules-and-tariffs."

Section-15.--Section-69-12-502, MCA, is amended to read:

"69-12-502. Prohibition---on---deviation---from---rate
schedules ---exception---It shall be Except-as-provided-in
69-12-201(4), it is unlawful for any Class A, or Class B or
Class-B motor carrier to charge, demand, receive, or collect
any greater or less rate, charge, or fare than that fixed by
the commission for the transportation service provided. When
Except-as-provided-in-69-12-201(4), when maximum or minimum
rates have been established for any service provided by any
Class-C or Class-B motor carrier, it shall likewise be is
unlawful for such the carrier to charge, demand, receive, or
collect any greater compensation or rate than that
established for the service by any applicable maximum rate
or any less compensation or rate than that established by
any applicable minimum rate. It also shall be is unlawful
for any Class A or Class B motor carrier or any Class-C or
Class-B motor carrier subject to maximum or minimum rates to
refund or remit, in any manner or by any device, any portion
of the rates, fares, and charges required to be collected
under the schedule of the Class A, or Class B or Class-B
motor carrier on file with the commission or under the
maximum or minimum rates established by the commission for
the Class-C or Class-B motor carrier."

Section 14. Section 69-12-611, MCA, is amended to read:

"69-12-611. Leasing of power equipment. (1) All Class
A, Class B, Class C, and Class D, and Class E motor carriers
subject to the jurisdiction of the commission may lease
power equipment for the purpose of performing transportation
movements within the state. The leasing of such power units
must be in writing.

(2) All leases must contain:

(a) the full names and addresses of negotiating
parties;

(b) a complete description of each vehicle involved;

(c) a provision that the sole possession,
responsibility, control, and direction of each vehicle
resides with the lessee for the entire term of the lease;

(d) a provision that the lessee assumes full
responsibility for all regulatory fees;

(e) the amount of compensation to be paid for use of
the vehicle while under the lease and the method by which
such the compensation is determined;

(f) the renewal conditions of the lease, if any; and

(g) the term length of the lease.

(3) A copy of the lease must be maintained in each
leased vehicle at all times. Each leased power unit so
leased must display in a conspicuous place on both sides of
such the vehicle the identity and address of the lessor and

1 lessee and the certificate number under which the power unit
2 is operating.

3 (4) The leasing of power units by an authorized carrier
4 to a noncertificated carrier is prohibited."

5 NEW SECTION. **Section 15.** Codification instruction.
6 [Sections 6 through 10] are intended to be codified as an
7 integral part of Title 69, chapter 12, part 3, and the
8 provisions of Title 69, chapter 12, part 3, apply to
9 [sections 6 through 10].

10 NEW SECTION. **Section 15.** Effective dates --
11 termination. (1) [Sections 1 and 3 through ~~10~~ 16] are
12 effective on passage and approval.

13 (2) [Section 2] is effective January 1, 1992.

14 (3) [Section 9] terminates October 1, 1992.

-End-

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON HIGHWAYS & TRANSPORTATION

Call to Order: By **CHAIRMAN BARRY STANG**, on February 7, 1991, at 3:00 p.m.

ROLL CALL

Members Present:

Barry "Spook" Stang, Chairman (D)
Floyd "Bob" Gervais, Vice-Chairman (D)
Ernest Bergsagel (R)
Robert Clark (R)
Jane DeBruycker (D)
Alvin Ellis, Jr. (R)
Gary Feland (R)
Mike Foster (R)
Patrick Galvin (D)
Dick Knox (R)
Don Larson (D)
Scott McCulloch (D)
Jim Madison (D)
Linda Nelson (D)
Don Steppler (D)
Howard Toole (D)
Rolph Tunby (R)

Members Absent: Rep. Alvin Ellis, Jr.

Staff Present: Valencia Lane, Legislative Council
Claudia Johnson, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

HEARING ON HB 37

Presentation and Opening Statement by Sponsor:

REP. ERVIN DAVIS, House District 53, Charlo, informed the Committee that HB 37 is basically the same bill which was heard in 1987 and 1989. The only difference this session is HB 37 simply asks that the provision for exempting from restriction on the vehicles carrying perishable agricultural seed potatoes be on a permanent basis to allow the Montana Certified Seed Potato growers some stability. He has been in contact with the state highway supervisor in Lake County as to any known road damage being attributed to seed potato haulers. As the road begins to

show damage in the spring of the year, reports indicate that the damage had begun to show up before the seed potato growers began to ship. The seed potato growers in Montana do not want to place their business in jeopardy. The law requires any hauler in violation must return to the point of loading, and in most cases, is asked by the grower never to return. For the past three seasons he has been the watch dog during that 4 to 6 week period of concentrated hauling. This past season he asked the Gross Vehicle Weight Division (GVW), State Highway Department to set up portable scales on Highway 212 to run a spot check which includes the seed potato haulers. Not one single citation was issued on that highway to a single seed potato hauler. Nor were any citations issued to a seed potato hauler on any of the adjacent highways during that time period; Highway 35, Highway 28, Highway 93, Highway 200, Highway 135, nor the round Butte highway, running west from the city of Ronan. He felt that was quite a record. Exhibit 1

Proponents' Testimony:

Don Lake, Lake County, stated his support for HB 37. EXHIBIT 2

Sid Schutter, farmer, Manhattan area, said he is in support of HB 37. EXHIBIT 3

John Crumley, McAllister, MT, informed the committee that the law has worked well for the few years it has been in effect. HB 37 would keep the law in effect for a longer period of time. Load limits placed on seed trucks hauling potatoes from Montana would increase costs from 38 cents to \$1.30 per hundred weight. This is based on a 10 inch wheel width, 400 lb. per inch width, 18 wheel truck, legally hauling 80,000 lbs. This amounts to a reduction down to 72,000 lbs. This reduces the legal hauling limit by 20%, therefore, if it costs \$2.00 per hundred weight to haul, there would be an 20% increase of .40 cents. It improves the other states ability to sell for less than Montana. This would be detrimental to have these load limits placed on the trucks hauling only during these three months.

Sam Hoffman, Manhattan, MT, said that HB 37 was placed before the committee because the Highway Department was harassing the people hauling these products. He urged the committee to support this bill.

Art Mangels, Polson, MT, said they have had harassment from the Highway Department. The trucks have been fined on the spot before they got to the first legal scale which is 9 miles south of Ronan. These trucks are watched very closely. The time for shipping is late March, April and the first part of May. If they don't move at that time, the potatoes cannot be sold. It's a perishable product. He urged a do pass for HB 37.

Mike Sun, Potato Specialist, Montana State University, said that HB 37 is very important to Montana's agriculture, particularly to

the perishable agricultural seed which has very limited delivery time. This bill will make it easier to deliver the product out of state, help reduce the cost of shipping and therefore make it more competitive in the market. It will help the economy of Montana.

Opponents' Testimony:

Gary Gilmore, Division Administrator of Operations Division, Montana Department of Highways, said during the spring, most of the highways are vulnerable for damage. Road beds are soft due to melting snow in the ditches, seasonable precipitation, freeze thaw cycles, spring run off, frost coming out of the ground which prohibits the surface and sub-surface moisture from going into the ground. Results are saturated roadways with the only stability being the pavement. Every load has potential to do damage. The heavier the load, the more the damage. This relationship of weight to damage is progressive. If the weight doubles, the effect on the roadway is not doubled, it may be ten, twenty, thirty or even more times damaging. Conversely, cutting the load in half does not cut the effect of the damage in half, but will decrease it by ten, twenty, thirty or more times. Even if no physical damage is seen to the pavement, effects and damage are occurring under the pavement. Moisture is pumping into the subgrade, ****gravels are being contaminated by soils being pumped into the moisture. This creates a mixing action under the pavement resulting in a roadway that has a load carrying capability that is greatly reduced. When these conditions occur, even a few trucks can totally destroy the surface of the roadway. These effects are more damaging on older roads than on newer ones. But the effects are present on all roads. The department cannot say that restricting all loads will eliminate damage, but it will definitely and substantially reduce the damage. This is why the Department of Highways is opposed to HB 37.

Dave Galt, Administrator of the Gross Vehicle Weight Division, Department of Highways, said if a GVW officer is in a position of restrictive role of weighing a truck with any commodity that has exceeded the load limit, is issuing a ticket, and a load of potatoes goes by that is heavier than the one they are writing the ticket to, they are forced to let that potato truck go. It places the officers in an unusual position as far as enforcing the weight limits. In the last four years, the Department of Highways has tried to help the situation in the Flathead Valley and Ronan area, by opening up Highway 93 as a corridor to the interstate in Missoula. Interstates are not restricted by load limits. Therefore, by opening Highway 93, will allow routes to the interstates so the potatoes can get out of the state. Last year the weight was increased on the front axle so they can carry the load limit because of the new designed trucks. These new weight limits would allow a truck to carry 12,000 lbs on the steering axle, bringing up the gross to 76,000 lbs on an average 5 axle semi. Citations written last year to potato carriers included the first one at the Bozeman scale on the January 6.

The last citation that was written to a vehicle hauling potatoes, occurred on June 23 at a scale in Billings on the interstate. Of all the citations, 30 were written to potato carriers all year during the spring breakup. Six of those citations occurred in the northwest part of the state, five of them were issued at the Haugan weigh station which is on I-90, 12 miles from the Idaho border. If this bill is passed, it will allow a potato truck to haul 80,000 legal gross weight. It will allow that truck to receive the 5% tolerance that is granted for all vehicles. That tolerance would lift the maximum allowed on a group of axles before a citation is issued to 35,700 lbs on a tandem and 84,000 lbs GVW. The average overweight on the citations issued was approximately 3,000 lbs. The Department of Highways is opposed to HB 37.

Questions from Committee Members:

REP. LARSON asked Russell Riggs, maintenance chief of the Missoula Division, Department of Highways, to explain to the committee what is happening to the roads. Mr. Riggs informed the Committee the road damage occurs because of concentrated hauling across restrictive routes is an aggravation of things that will happen on an annual basis because of structurally deficient highways that were built 30 to 40 years ago that were not designed to carry the kind of loads that are allowed on the highways today. When a route is restricted, it is being protected from becoming damaged faster than it normally would. By reducing loads or forcing trucks to use other routes during the spring break up, a considerable amount of repair cost is being saved.

REP. GERVAIS asked what was meant by "if certain conditions were met" in the title of the bill. REP. DAVIS said the seed potato haulers are allowed to haul potatoes by gross vehicle weight, that is the condition. The second condition is if a road has a speed restriction, the trucks have to abide by those restrictions.

REP. CLARK asked if only potato seeds or all agricultural seeds were being dealt with in this bill. REP. DAVIS replied that agricultural perishable products were being dealt with here. To his knowledge this is the only agricultural perishable product in Montana that has to get out of the state by a time frame.

REP. CLARK asked if it should specify potato seeds or leave it as broad as it is. Mr. Lake said that he was instrumental in writing that part of the bill that states "perishable agricultural seeds" was used. He did not know of any other perishable agricultural seed other than potatoes that were hauled.

REP. CLARK asked REP. DAVIS if he would have any objection to putting the words "potato seeds" in the bill. REP. DAVIS said no.

REP. BERGSAGEL asked if load limits were placed on all large trucks. Mr. Galt said that the maintenance division determined if the road needed to be restricted. The policy is to restrict by the inch width of the tires. All vehicles are restricted by the inch width of tire they have on the ground. It affects all trucks.

REP. GALVIN wanted to know how a potato grower would get to Highway 93 with an 8000 lb. load if they don't live on that stretch of road. Mr. Galt said the driver would have to use a road that was not restricted or an access road. If they lived on an access road that was restricted, there would be a problem.

CHAIRMAN STANG asked if under the current system, are there any restrictive routes that can be used now and what are they? Mr. Galt said at this time of year the trucks that haul potatoes could be on Highway 200, the highway that cuts down to St. Regis on Highway 135, and cuts across Highway 93 through Charlo.

CHAIRMAN STANG asked if it was written into the bill that only non-restrictive roads be used, would it solve the Highway Department's problem with this bill. Mr. Rigg said the language proposed would help the Highway Department.

CHAIRMAN STANG asked Mr. Lake how he would feel if the committee amended this bill so the only road they could use other than county access roads to Highway 93, would be Highway 93 to Missoula and then on to Interstate 90, so they avoid these older roads. Mr. Lake said the trucks have been encouraged to use Highway 93, and if it became law they would have to. The problem the haulers have is that the potatoes have to come off of secondary roads all over the state. The haulers could never leave their farms if restrictions were placed on county roads.

CHAIRMAN STANG asked REP. DAVIS if he would agree to put loggers and logs into the bill, because they are also an agricultural product? REP. DAVIS said that the loggers are already restricted that time of year.

CHAIRMAN STANG asked Mr. Lake to described the seed potato as a perishable product saying that it has to be transported in the early spring, can he account for the fact that the GVW division wrote tickets from the first of January until the middle of June. Why are other trucks hauling seed potatoes to other areas? Mr. Lake said potatoes can be shipped for seed as late as June, but the restrictions would be off both in June and January. The market demands those potatoes be shipped from about the 15th of March through the first of May. Basically that is the market demands. If the potatoes are shipped in January, they would be perishable and would not last. Once the potatoes are taken from storage they rapidly deteriorate.

Closing by Sponsor:

REP. DAVIS said that the Highway Department's testimony has been a big surprise. Last session they were for this bill. The tickets received from the department did not include one seed potato hauler. Limiting the seed potato haulers to Highway 93 would certainly create problems to those who use Highway 91. He said the information they have, is that speed, not weight, has been the culprit breaking up the roads. The agriculture process is an asset to Montana. Those products must get out. If they are shipped too early they rot, if they go out too late nobody wants them. It is the only perishable product in Montana that is on a time limit.

HEARING ON HB 192Presentation and Opening Statement by Sponsor:

REP. WANZENRIED, House District 7, Flathead Valley, informed the committee that HB 192 has received a lot of study and a lot of attention. It proposes to establish state economic regulation of log hauling in Montana. Under the current system, logs are considered an agricultural commodity. The bill proposes to change that. Logs would no longer be an exempt agricultural commodity. They would come under regulation by the Public Service Commission (PSC). The PSC would establish rates to be charged to haul logs from point to point in Montana. The bill proposes, contrary to the history that has been taking place for the last 20 years, the state would regulate log hauling. It is not a perfect solution. The system would allow for collective or individual rate making. Individuals could approach the PSC individually or collectively to establish rates. This bill does not put the PSC into regulating commodities. Montana would not become the first state in which logs are regulated. Fourteen other states regulate intrastate shipments of logs including Washington and Oregon. The biggest problem is when logs are moved there is no assurance about the time table as to when payment will be made or the amount. EXHIBIT 4. On page 2, line 12 of the bill, is the definition of logs. Under current law, there are four classes of regulated haulers in Montana; Class A, B, C and D. This bill would establish a Class E carrier. Class E carriers could transport only logs and a hauler would have to have a Class E certificate. Class B carriers are regulated by the PSC. Of the commodities listed, some carriers haul for a published tariff. Their authority says they purchase a certificate and can haul the commodities as a common carrier. That is a tariff. Class C is much the same although in this case the commodity is on a contractual basis. It is moved under a contract. House Bill 192 proposes to meld these two concepts. This bill does not alter the relationship between the mills and the logging contractors. The only thing that changes is the rates. When a Class E certificate is issued, log haulers will be both common carriers and contract carriers. They would haul logs at the prescribed rate as a common carrier. The other option is

HOUSE HIGHWAYS & TRANSPORTATION COMMITTEE

February 7, 1991

Page 7 of 13

available to the same log hauler. They can negotiate a contract and charge less than the tariff rate, but no less than 90%. Section 9 of the bill has a grandfather clause, in this instance anyone hauling logs between April 1, 1990 and October 1, 1991, will automatically be granted Class E certificates.

Proponents' Testimony:

REP. MARY LOU PETERSON, House District 1, Eureka, said she sponsored this bill last session. There were two things she was pleased about: 1) this bill is a much better bill than the bill in 1989. This bill has been carefully worked out and some of the problems she had last session have been taken care of in this bill. The unfairness issue that was addressed in 1989, is still there today. She attended public meetings that dealt with the players on the chart. EXHIBIT 4

Ben Havdahl, Montana Motor Carriers Association, stated his support for HB 192. EXHIBIT 5 and EXHIBIT 6.

REP. PAULA DARKO, House District 2, Libby, said that log truck drivers are an independent lot. For them to request regulation of any form is a big concession on their part that they need help. It is evident from the people testifying that there is no procedure in place. The rates are done informally and her constituents are writing about the changing rates. There is no clear regulation or definition as to how much these rates are. The committee needs to be aware that these people have come forth and asked for regulation.

Lyle Doty, Flathead County, stated his support for HB 192. EXHIBIT 7.

Dave Brandt, Brandt Trucking, Eureka, has logged for 20 years. He urged the committee to support HB 192. EXHIBIT 8.

Patricia Slack, Secretary, James A. Slack Logging and Trucking, said she is in support of HB 192. EXHIBIT 9

Harley Jones, Jones Hauling, log hauler, urged the committee to support HB 192. He has been an log owner and operator for 20 years in Missoula. EXHIBIT 10.

Arletta Mrgich, Eureka, Co-owner log truck, said she is in support of HB 192. EXHIBIT 11.

Suellen Brady, Log truck owner and operator, Whitefish, asked for the committee's support in the passage of HB 192. EXHIBIT 15

Opponents' Testimony:

Richard Coverdell, Columbia Falls, said they have a mom and pop operation with one log truck and do not have any problems with the mills for their pay. He is opposed to HB 192. EXHIBIT 12.

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Sherm Anderson, Owner of Sun Mountain Logging, Deer Lodge, said he is a logging contractor and is involved in all the logging procedures. He urged the committee to oppose HB 192. EXHIBIT 13.

Bart Cooper, Boulder, President of D. L. Cooper, Inc., said they are a family owned company and a logging contractor. Two years ago he opposed this bill to regulate log hauling. He gave an example of the livestock haulers. They are regulated under the PSC. At one time he was a livestock hauler and worked hard to see the livestock haulers regulated by the PSC, because he thought it would answer all their problems. He said they had the same kind of problems the loggers have today. He checked on the livestock haulers and found that the stock haulers feel that the PSC has a very poor enforcement. They do not have the manpower to give the proper enforcement. He cannot see any help in the near future for the log haulers from the PSC. Under HB 192, there will be additional time spent on record keeping, quarterly charges for gross revenue, and a quarterly charge for the tariff. Most truckers have a fair rate to go by. There aren't any problems now, lets not create any more.

Bill Chrismore, Logging business in Libby, said he has been in the logging business for 20 years. They operate different in Libby than the Missoula area. One of the fears is with the companies they haul logs for deals with smaller contractors. If log hauling becomes regulated the company will be turned over to one or two major log hauling contractors. They would have to negotiate with one or two contractors instead of 15 or 20. It's hard to understand why some of the contractors are not being paid, if that is true. He said in the last twenty years he has never had any problems with any of the mills not paying him. The problem they have in the logging business is the need for more flexibility in negotiating the rates. Someday there may need to be a change in the rates, e.g., the conditions of the roads change, the differences in the weights they haul because of forest service restrictions vary on many different things. Passage of this bill would not be in the best interest of many loggers in the Libby area.

Leroy Christofferson, Christofferson Log Liners, Inc., Missoula, spoke in opposition of HB 192. EXHIBIT 14.

Jim Blue, Log Trucker, Darby, said the flexibility that is available now with negotiating rates with the mills is in the best interest of all truckers. More bookkeeping and more record keeping will not make a trucker better off financially. If the change is from agricultural to regulated carrier, the agricultural rates on the GVW of 75% would be raised to 100%. Federal truck inspections, drug testing, log books, fuel reports, ton per mile tax, and now with the federal highway tax, they do not need any more forms to fill out.

Bill Cowder, Townsend, Log truck owner operator said if this bill

passes, a trucker will be limited to 2 contracts at a time. During the spring when many logs have to be hauled would make it too restrictive. This bill requires a 30 day minimum contract. If the job only lasts 3 or 4 days, a person would be stuck for 30 days until a new contract could be applied for. It has not been indicated how much this will cost the loggers.

Mark Pere, North of Belgrade, said they have survived in this business without regulations. With the difference in the haul distances and the road conditions in Montana, who would have enough knowledge or expertise to set the rate and where would the revenue for the administration come from.

Donna Normando, Normando Trucking, Thompson Falls, said the regulation will not solve their economic woes. The haulers should not expect to have their rates raised because of being regulated or not. There is a need for better rates for log hauling and the total industry. This bill does not address all of the needs nor will it solve all of the problems. The PSC will not get the haulers better rates. It will cost money to have audits on the yearly financial reports and load insurance. This is merely one more band aid that is not going to stop a bleeding wound.

Jackie Christofferson, self, said there are two words that are universal in any industry and that is; entrepreneurship and free enterprise. This bill could take those two things away from them. There are 3 things that make a business survive: 1) management; 2) money and managing the people; and 3) a simple solid foundation in service to the customer.

Everett Parsons, Log truck owner, Polson, spoke in opposition to HB 192.

Questions From Committee Members:

REP. FOSTER, asked Wayne Budt, PSC, if it is true that a tariff in place would apply across the board rather than for an individual company basis, or does each company have its own tariff. Mr. Budt said the option is there for each company.

REP. FOSTER asked if they offer the individual tariff, how is it determined and how is a company looked at to decide which tariff is best for that company. Mr. Budt said it will be based on the cost they present along with the tariff. For more than one company the cost would be shared, for one company it would be based strictly on the cost factor. REP. FOSTER said there has been discussion about auditing and the PSC looking into the operations of the companies, if it could be explained the amount of authority the PSC has, how deep into the books and records into a given company can the PSC dig into. Mr. Budt said they would treat them like they do the other carriers that have tariffs. He said the PSC would basically go in and review the bills and see that their rates are correct. They are set up now to do that every 2 to 2 ½ years. REP. FOSTER asked what would be

the effect on the PSC if HB 192 became law. Mr. Budt said there would be an fiscal impact. They would be looking at 1 more person to handle the freight bill audits, perhaps 1 more to handle increased insurance and the annual reports and contracts.

REP. FOSTER, asked REP. WANZENRIED to have all the people stand who were for HB 192 but were not testifying, and how many are here that are opposed to HB 192. He said there has not been a fiscal note requested for HB 192 and asked if he could furnish one to the committee. REP. WANZENRIED said that he would.

CHAIRMAN STANG asked what assurances do the people have from this bill that the industry will be better off 5 years from now. REP. WANZENRIED suggested going back to EXHIBIT 4 to study.

REP. LARSON asked Mr. Budt if he could explain some of the costs a trucker might incur i.e., will they be required to carry cargo insurance. Mr. Budt said the requirements for cargo insurance is in place now for the other classes of carriers. It is obviously something the commission would look at when they are writing rules. The liability insurance would be required. It is something that would be discussed with the carriers as to whether or not cargo insurance is needed. REP. LARSON asked if the PSC will require different maintenance standards and will these regulated carriers be subjected to some routine inspections of their trucks. Mr. Budt said the question would have to be directed to the Highway patrol, the PSC is not involved in truck safety.

REP. LARSON, asked REP. WANZENRIED that under this proposed regulation how would a hauler move from 1 to 2 to 3 jobs in one day? REP. WANZENRIED said the bill requires that a contract cannot be for more than 30 days, and that person cannot have more than 2 jobs in effect at one time. That does not preclude them from hauling the rest of the month. He referred to exhibit 4, and said that person would also be a common carrier, so for anyone else that person hauled for during the 30 days would be hauling as a common carrier.

REP. STEPPLER, asked Ben Havdahl about the figure he referred to for \$500,000 liability insurance and \$10,000 cargo insurance policy. What would be the cost for this. Mr. Havdahl didn't have the figures, but said he could provide them later.

REP. STEPPLER asked Mr. Coverdale in regards to the contract he had distributed to the committee members, that he couldn't find any specified price in the contract and no clause for fuel increases etc. Where is the protection and how does a contractor negotiate these things. Mr. Coverdale said it is a mutual agreement between the company and the hauler. REP. STEPPLER said he referred to a negotiated rate of no less than 90% from the PSC. Will that cause a problem with the larger truckers or companies and the common 1 or 2 truck operations. Mr. Coverdale said it might very well, because there are a number of small

carriers that prefer it not be there.

REP. KNOX asked Arletta Mrgich how would she feel about the ability of the contract carrier to operate for 10% less than the established rate and how would it affect her as a small logging contractor. Ms. Mrgich said at the present time they do not know what their logger has contracted for the hauling. She said they may be operating 10% to 20% under already. With this bill, if a person is efficient enough to offer a contract for 10% less than her because they have more trucks and receive better buys on fuel, or that he can operate for less is fine. At least I know what I am getting and where I stand.

REP. MCCULLOCH asked Mr. Budt in regards to Mr. Havdahl's testimony where he talked about adequate or reasonable haul rates and the economic and market factor, could he then assume as the economic and the market factors change, the tariff itself would change. Mr. Budt said his impression on the market and the economic impact was that obviously when a carrier proposes an initial rate to the commission, he will look at what his costs are and what would be a reasonable profit. He would have to weigh against the market impact of what the rate would do to the competition of the mills or the loggers bringing their own trucks in to do it. Once the rates are established they don't change until the carriers propose a change.

REP. MCCULLOCH asked REP. WANZENRIED about the discussion of the possibility existing if this bill passed about the turnover for 1 or 2 large contractors take over. REP. WANZENRIED said it is more likely to occur under the present circumstances where there is no basic rate structure anywhere.

REP. CLARK asked if the log haulers are restricted to two contracts, would they then be allowed to haul as a common carrier. REP. WANZENRIED said yes, a person can only have 2 contracts in effect up to thirty days. After that, any other business that is done during the duration of those contracts would be done as a common carrier. He said that a number of the people like to use contracts. The volume of the 2 contracts for thirty days would put the haulers at a competitive disadvantage. The opportunity to haul logs as a common carrier would mean that everyone would know what the rates would be for the duration while the 2 contracts are in effect.

REP. ELLIS asked Mr. Havdahl about this bill being compared to the livestock hauling industry, would he know if there has been a large turnover in those haulers in the last few years. Mr. Havdahl said probably not. Right now there are 135 members in the tariff and it has been consistent. There have been changes, but basically stable.

REP. LARSON asked Mr. Chrismore what position does the Montana Logging Association have on this matter. Mr. Chrismore said that the Executive Board met and decided at this time they would not

take a position for or against HB 192.

REP. LARSON asked Mr. Budt how would the loggers adjust the rates if they have 3 miles of native road, 10 miles of gravel road and 30 miles of highway and switch jobs in the middle of the day, who would be controlling and setting that rate. Mr. Budt said the classifications are set up before the job starts. Everyone knows what they are. If they switch jobs, the road classifications are set up for each job.

REP. FOSTER asked REP. WANZENRIED about the testimony of Mr. Coverdale. The statement was made about needing a state mandated contract between log shippers and log haulers stated terms and conditions agreed upon by both parties. If that were done, how would that help or hinder the proponents of this bill? REP. WANZENRIED, That is how Oregon regulates their haulers and shippers. Some of the language in the bill was taken from the Oregon law. Most everyone who wants a floor established realize that the rates would be higher. For the first time in recent years, log haulers would be receiving a compensatory rate.

CHAIRMAN STANG asked Mr. Budt if he would briefly explain what would happen if someone wanted a contract for less than 90%. Mr. Budt said if someone wants to operate a contract, they can right now operate it between 100% and 110%. If they want to operate low, they can go to the commission and review the situation. The tariff rate will be set based on 100 weight or per mile and type of roads. It would apply to all areas of the state.

REP. GALVIN, define rate. Mr. Brandt, each person has their own rate, based on mileage, roads etc. All of the above figures out to a rate per ton.

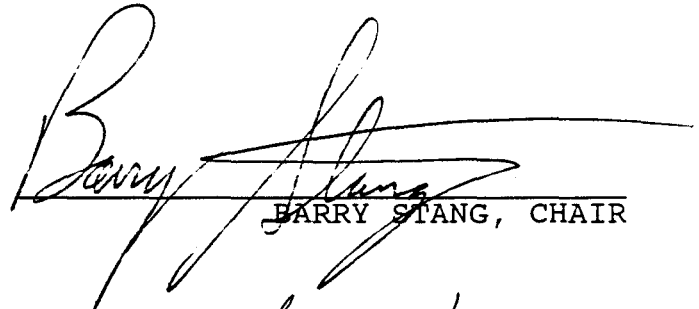
Closing by Sponsor:

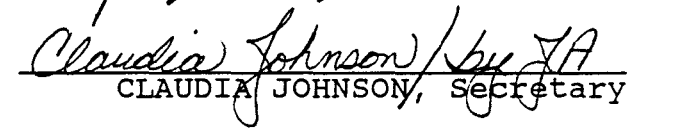
REP. WANZENRIED said as far as he knew, there was infrequent and very limited contact between the Wood Product's Association and the Montana Motor Carrier's Association representing the log carriers during that period of time. Some sort of regulation is needed. One thing to keep in mind, the bill does not regulate anything except the transportation costs. It has nothing to do with safety. The bill has a mechanism built in to reflect the rates. The cost of implementation is another concern here. The bill proposes rate making be brought out in the public for the first time. All parties will have an opportunity to reflect what those rates might be.

CHAIRMAN STANG informed the committee that it would probably be a week to ten days before this bill would be acted upon. He said it will be discussed it at the next committee meeting to decide whether it should go into a subcommittee.

ADJOURNMENT

Adjournment: 6:15 p.m.


BARRY STANG, CHAIR


CLAUDIA JOHNSON, Secretary

BS/cj

HOUSE OF REPRESENTATIVES

HIGHWAYS AND TRANSPORTATION COMMITTEE

ROLL CALL

DATE

2-7-91

NAME	PRESENT	ABSENT	EXCUSED
REP. FLOYD "BOB" GERVAIS, V.-CHAIR	✓		
REP. ERNEST BERGSAGEL	✓		
REP. ROBERT CLARK	✓		
REP. JANE DEBRUYCKER	✓		
REP. ALVIN ELLIS, JR.			
REP. GARY FELAND	✓		
REP. MIKE FOSTER	✓		
REP. PATRICK GALVIN	✓		
REP. DICK KNOX	✓		
REP. DON LARSON	✓		
REP. SCOTT MCCULLOCH	✓		
REP. JIM MADISON	✓		
REP. LINDA NELSON	✓		
REP. DON STEPPLER	✓		
REP. HOWARD TOOLE	✓		
REP. ROLPH TUNBY	✓		
REP. BARRY "SPOOK" STANG, CHAIRMAN	✓		

EXHIBIT 1
DATE 2-7-91
HB 37

TESTIMONY ON
HB 37

Mr. Chairman, members of the committee, my name is Ervin Davis, Representative from HD 53, Lake County.

HB 37 is basically the same bill which was passed in 1987 and again in 1989. The only difference this session is HB 37 asks that the provision for exemption from restriction of vehicles carrying perishable agricultural seed potatoes be on a permanent basis to allow the Montana certified seed potato growers some stability.

I've been in contact with the State Highway supervisor in Lake County as to any known road damage being attributed to seed potato haulers. As the roads begin to show damage in the spring of the year - chuck holes, frost heaves and the like - reports indicate the damage had begun to show up BEFORE the seed potato growers begin to ship.

No seed potato grower in Montana wants to place his business in jeopardy. As the law requires, any hauler in violation must return to the point of loading and, in most cases, is asked by the grower not to return.

For the past three seasons, now coming four, I've been the watchdog during that 4 to 6 weeks period of concentrated hauling. This past season, 1990, I asked the GVW division to set up portable scales on HWY 212 to run a spot check, including seed potato haulers. NOT A SINGLE CITATION was issued on that highway to a seed potato hauler. Those citations are available in the State Highway division. Nor were any citations issued to a seed potato hauler on any of the adjacent highways -- 35, 28, 93, 200, 135 nor the Round Butte Highway, running west from the city of Ronan.

I'd like to turn this over to any proponents and would reserve the right to close. Thank you.

EXHIBIT 2
DATE 2-7-91
HB 37

February 7, 1991

I am Don Lake, a farmer from Lake County and have lived in Ronan for fifty-five years. I have grown seed potatoes for thirty-five years. During the past ten years I have served as an adviser on the Montana Potato Improvement Association (MPIA) to Montana State University representing Lake County which has about twenty-seven seed potato growers who plant about 2,200 to 2,500 acres of certified seed which is normally marketed from March 15th through May 1 of each year.

We have operated under the present statute which allows trucks to load to their legal license weight for the past three seasons to determine if any damage was occurring to Montana roads. I do not know of any incidence where someone felt that these seed potato trucks are causing abnormal wear and tear.

During the past three years the shipments have gone very smoothly because trucks are able to haul from all areas of the state as the buyers wish. There has been an increase in shipments of Montana seed potatoes which has been a great economic boost to the state.

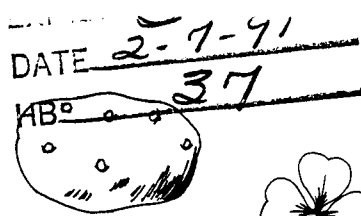
We growers wholly support the passage of this bill because it makes good economic sense. It creates more jobs, better profit for the growers, economic use of fuel for shipping and increased overall efficiency of the industry.



SCHUTTER SEED FARM

FOUNDATION AND CERTIFIED SEED POTATOES

ROUTE 2, BOX 30 • MANHATTAN, MONTANA 59741 • RESIDENCE 406/284-3718 • WAREHOUSE 406/284-3346



Members of the highway committee.

My name is Sid Schutter. I farm with my brothers in the Manhattan area.

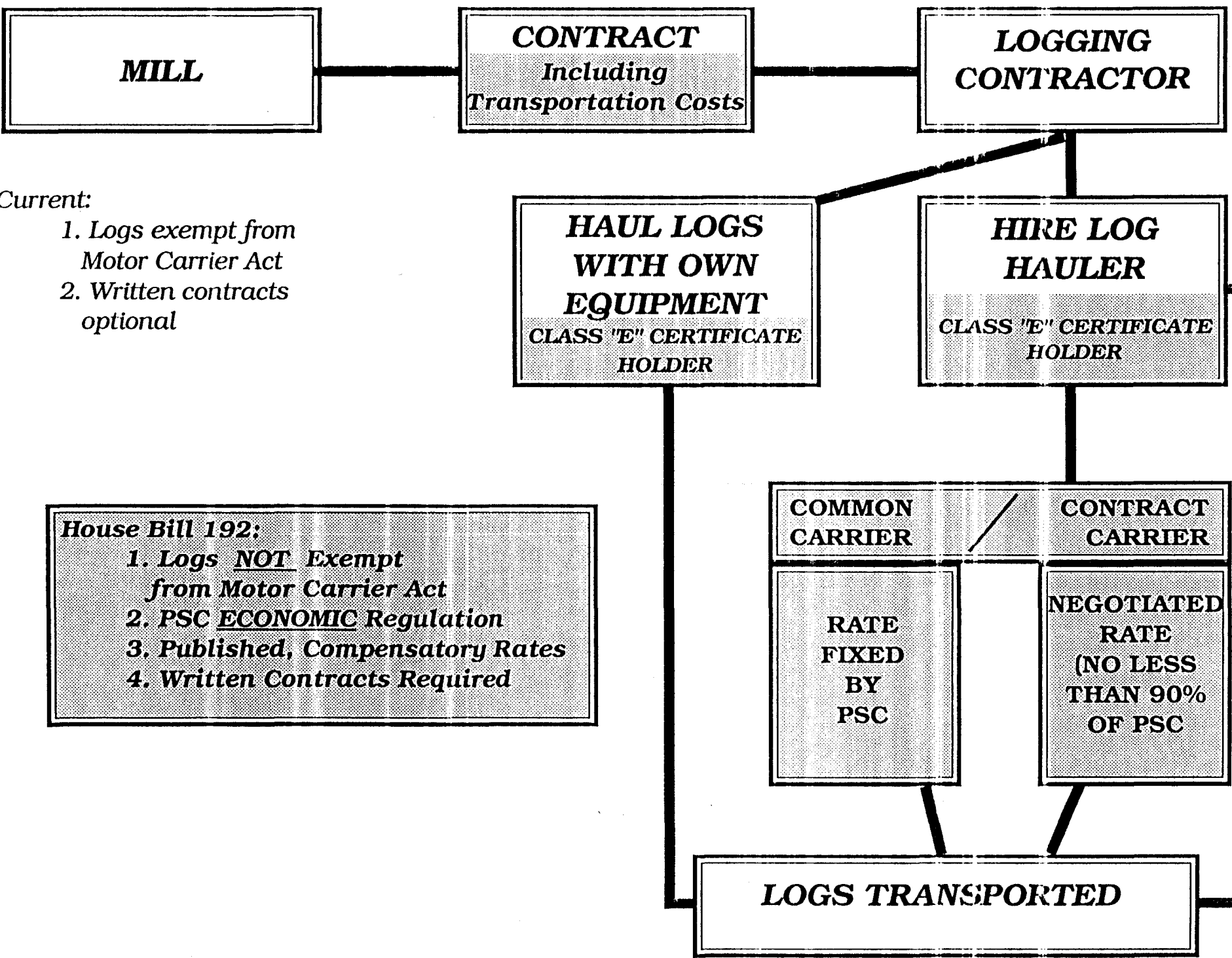
There are approximately 7,000 acres of seed potatoes grown in the state of Montana each year. Over 90 percent of these potatoes are sold and shipped out of state, mostly to Washington. This generates approximately 17 to 20 million dollars of revenue each year. This is revenue coming into Montana from other states. These monies are spent by Montana seed potato growers in this state for labor, farm equipment, and fertilizer from local dealers.

Montana seed growers have a lot of competition from the seed growers of Canada, Idaho and Oregon. All of these areas are closer to the Washington market than Montana. Therefore, they have a lower freight cost. If the seed trucks coming out of Montana cannot travel with their full legal interstate weight because of local weight restrictions, then this raises our freight cost more yet. If this happens the Washington buyers will look to our competitors, who are closer to the market, for their seed potatoes. This will hurt the Montana seed potato business and state revenue.

For these reasons, I am asking you to support the passage of H. B. 37.

Respectfully yours

Sid Schutter
Sid Schutter



Current:

- 1. Logs exempt from Motor Carrier Act
- 2. Written contracts optional

House Bill 192:

- 1. Logs NOT Exempt from Motor Carrier Act
- 2. PSC ECONOMIC Regulation
- 3. Published, Compensatory Rates
- 4. Written Contracts Required

EXHIBIT 5
DATE 2-7-91
HB 192

Date Submitted: 2/7/91
HB 192
Ben Havdahl, MMCA

Mr. Chairman.....Members of the Committee. For the record, my name is Ben Havdahl, Executive Vice President of Montana Motor Carriers Association.

MMCA supports the passage of HB 192, a bill to include the "for-hire" transportation of logs within Montana as a regulated commodity under the Motor Carrier Act. The bill will simply add logs to the more than hundreds of commodities that are all ready regulated under the act in Montana. A partial listing of the commodities is attached for the information of the committee.

MMCA and the Montana Log Truckers Association merged organizations in June 1990 and currently there are 188 members in the MMCA Log Truckers Conference and they are seeking this legislation. MMCA Board adopted a position for full support of this effort. MMCA members have been operating under the act for several years and have had considerable experience with economic regulation in Montana.

Economic regulation of the trucking industry by Montana has been an integral part of this State's transportation policy for the past 60 years. Controls on motor carrier entry and rates, coupled with limited antitrust immunity for collective rate-making, have provided fairness to the shipping public. Further it has resulted in a safe and reliable trucking service and a complete transportation network available even to the most remote shipper. Under regulatory controls, the trucking industry in Montana has grown to become a major mode of Montana freight transport.

The role of state government, through the Public Service Commission, dating from the earliest days of freight transportation, has been to regulate freight common carriage to ensure that adequate service is available for all those who need it, at reasonable rates and on a nondiscriminatory basis. Montana like some 35 other states, adopted laws in the early 1930s regulating entry, rates charged and the financial arrangements of carriers.

Why regulate trucking in Montana?

Economic regulation stabilizes the trucking industry and enhances productivity.

It assures fairness to all shippers and inhibits anti-competitive rates and practices.

It maintains the flow of information essential for competition. This is due to the requirement for public filing and broad dissemination of tariffs and terms applicable to common carrier service.

Page 2

Economic regulation encourages efficient collective rate making. Calculating the appropriate rate for each shipment is a big task, involving many possible pairs of origin and destination points, types of shippers and types of commodities. Collective rate making has enabled carriers to efficiently meet this task under antitrust immunity. Carriers can also file individual rates. Shippers have input relating to rate proposals through public hearings and comment.

It enhances highway safety. There is a direct relationship between economic regulation and safe equipment. According to the AAA Foundation for Traffic Safety, "the problems involved in sharing roads and highways with a limited number of highly regulated, responsible motor carriers operating in a basically secure economic environment are totally different from the safety problems involved with a large number of non-regulated, economically insecure motor carriers ."

Experience with limited deregulation has shown that when carriers are forced to engage in a fierce struggle for traffic, they cut costs in those areas most related to safety.

Finally it preserves well-established shipper liability protections. Carriers are required to maintain a minimum amount of liability insurance set by regulation at \$500,000 and have in force a \$10,000 cargo insurance policy.

Why regulate logs in Montana? You have heard and will hear more about why. I would like to give you just a few reasons to pass HB 192.

Under current motor carrier law, logs are considered to be a non processed agriculture commodity and are exempted from the act. Livestock hauling, also a non processed agriculture commodity, is regulated.

Current log hauling arrangements are verbal and on a take-or-leave-it basis.

House Bill 192 establishes a special class of carriers, Class E, to transport logs in the State as a common carrier, with the ability to also enter into written contracts with shippers.

The rates paid to log truckers, many times are, unfair, inconsistent, arbitrary and sub-standard for their transportation service.

House Bill 192 would place logs under the intrastate motor carrier act as a regulated commodity, allowing compensatory rates for common carriage to be established, either as an individual carrier or as a group with immunity from anti trust laws.

House Bill 192 would require that contracts be in writing for transportation of logs by truck. Although current logging industry practices include written contracts between mills and log contractors which include costs for cutting and transporting logs plus a profit, generally no such written contract is in effect between the log contractor, the shipper of the logs and the log trucker.

Page 3

Log regulation in other States?

14 states regulate log hauling by motor carriers from the forest to the mill and/or from storage to the mill. Included are: Connecticut; Kansas; Massachusetts; Michigan; Minnesota; Nevada; New Mexico; Ohio; Oregon; Pennsylvania; Texas; Utah; Washington; and West Virginia.

16 states regulate wood chip hauling by motor carriers from the forest or mill to paper plants and include all of the above states except Michigan, Minnesota, and New Mexico. In addition, Montana, Idaho, New York, and North Carolina regulate wood chips. Montana regulates woodchips, why not logs?

How is an intrastate tariff established?

There are those carriers, when considering to haul regulated products, that fear they will fall into a regulatory abyss from which there is no escape. Such is not the case. Certain rules must be followed and reports rendered, but the requirements are no more than those required by any carrier's accountant for good business management and preparation of tax returns.

The initial consideration is the "construction" of a proposed tariff to be filed with PSC. A tariff is nothing more than a price list or a rate list for services to be rendered. Rates can be as simple as reading a menu. Rates are the costs to the shipper for hauling the product. Rates can be based on miles, weight, point-to-point, or any other method the carrier or group of carriers may deem appropriate. In the case of log hauling different road surfaces are taken into account.

Rates are determined in such a way, that any shipper can look at a tariff and determine the exact amount he will be charged for the services performed, prior to the movement of the product.

The determination of what makes an adequate or reasonable line haul rate is composed of basically two major factors, the economic factor and the market factor. Considering the economic factor, carriers must decide at what level they need to operate, to pay their bills and realize a reasonable profit.

The second factor in constructing a rate is the marketplace or the shipper. It must be attractive to the shipper or a shipper will take other alternatives such as using his own trucks.

In the case of log truckers establishing an initial rate, they no doubt would look to existing rates as a base and construct a tariff from that point.

Carrier's economic data is assembled to determine costs and rates, including: revenue and operating expenses. Collectively or individually this data is assessed and included in the base used to determine a fair and reasonable rate.

MMCA now provides tariff service to some 135 livestock carriers who are members of a collective livestock tariff. I have provided for the committee's information a copy of that tariff's rules, two pages of rate sheets, and a Memorandum explaining the details of how a tariff is generally established.

Livestock carriers sought and were granted economic regulation by the 1971 Legislature. Their system has been working to the satisfaction of carriers and shippers for 20 years. The structure of a collective tariff for log haulers will be similar but with particular modifications appropriate to that industry.

Rate determination is not a mysterious process. It is a process that is open and fair to all concerned both carriers and shippers. The process insures a transportation system that is stable and dependable. It is not perfect. Livestock haulers can attest to that fact as can others. However livestock haulers and other carriers are still operating effectively under the regulated system after many, many years.

Thank you.

EXHIBIT 5
DATE 2.7.91
HB 192

PARTIAL LISTING OF COMMODITIES TRANSPORTED BY MOTOR CARRIAGE
WITHIN MONTANA UNDER INTRASTATE COMMERCE REGULATION

Forest Products -Bark-Sawdust-Wood Chips -Mill to Paper Plant-Forest to Paper Plant
Lumber and Wood Products-Finished lumber-Plywood-Partical board
Fencing Roofing Shingles-Poles and Posts
Building materials - Blocks, Bricks-Dry wall-Roofing metal,composition
Buildings
Fresh fish & othe marine products
Metalic ores
Coal- Crude Petroieum,Natural Gas
Nonmetalic minerals
Ordnance & accessories
Food & kindred products
Tobbaco products
Textile mill products
Apparel & other finished textile&knit
Furniture & fixtures
Pulp, paper & allied products
Chemicals & allied products
Petroleum & Coal products
Asphalt-Coke
Rubber & misc. plastic products
Leather & leather products
Stone, clay, glass & concrete products
Primary metal products
Fabricated metal products
Machinery -Electrical machinery equipment
Transportation equipment
Instruments,photo&optical
Waste and scrap metal
Dry bulk cement
Bulk fertilizer
Livestock-Cattle-Sheep-Horses
Processed cattle feed
Hides
Automobiles -light vehicles- Automotive parts-batteries
Farm machinery
Floor covering
Household goods
Solid waste - ashes
Beverages-Liquors
Meal
Meat
Dairy products
Paints
Pipe
Food products-canned-frozenAnd many others



EXHIBIT 6
DATE 2-7-91
HB 192

B.G. HAVDAHL, EXECUTIVE VICE PRESIDENT
501 NORTH SANDERS
P.O. BOX 1714, HELENA, MONTANA 59624
TELEPHONE: AREA CODE 406 442-6600

February 7, 1991

MEMORANDUM TO: MONTANA HOUSE OF REPRESENTATIVES,
COMMITTEE ON HIGHWAYS AND TRANSPORTATION

REGARDING: How Carriers, Individually or Collectively, Establish a Tariff
for Transporting Commodities Within Montana.

The Legislature established the Montana Public Service Commission as the State agency responsible for regulating transportation in the Montana and PSC is the appropriate agency for approving tariffs.

The initial consideration in rate establishment is the "construction" of a proposed tariff to be filed with PSC. A tariff is nothing more than a price list or a rate list for services to be rendered and can be as simple as reading a menu. Rates are the costs to the shipper for hauling the product. Rates can be based on miles, weight, point-to-point, or any other appropriate method.

Rates are determined in such a way, that any shipper can look at a tariff and determine the exact amount he will be charged for the services performed, prior to the movement of the product.

The determination of what makes an adequate or reasonable line haul rate is composed of basically two major factors, the economic factor and the market factor. Considering the economic factor, carriers must decide at what level they need to operate, to pay their bills and realize a reasonable profit.

The second factor in constructing a rate is the marketplace or the shipper. A rate must be attractive to the shipper or he will take other alternatives such as using his own trucks.

Carrier's economic data is assembled to determine costs and rates, including: revenue; and expenses such as labor, fringe benefits, operating supplies, fuel and parts, fuel taxes, property taxes, GVW fees, workers compensation premiums, insurance, depreciation, purchased transportation, rent and others. Collectively or individually this data is assessed and included in the base used to determine a fair and reasonable rate. A profit factor is also included.

Under the PSC system for rate establishment, once an initial tariff is filed and approved by the PSC, the rates and charges are effective. Routinely a hearing is not held on the initial establishment of rates. The PSC may, however, investigate and conduct a hearing on initial rate filings. Any changes in rate levels or charges in the tariff may be challenged at public hearings.

Collective tariffs operate under approved rules and regulations and the PSC has to approve these rules and other information connected with an initially filed tariff and any changes to those rules after the tariff becomes effective.



ORIGINAL TITLE PAGE

MONT. P.S.C. NO. 5
CANCELS
MONT. P.S.C. NO. 4

MONTANA LIVESTOCK TARIFF BUREAU,
AGENT

LIVESTOCK TARIFF NO. 3
(CANCELS LIVESTOCK TARIFF No. 1-B)
SEE LIVESTOCK TARIFF NO. 2 FOR PARTICIPATING CARRIERS

NAMING

INTRASTATE
MILEAGE COMMODITY RATES
AND MILEAGE VOLUME TENDER RATES

- AND -

RULES AND REGULATIONS

BETWEEN POINTS IN	AND POINTS IN
MONTANA	MONTANA

THIS TARIFF APPLIES ONLY ON MONTANA INTRASTATE TRAFFIC

ISSUED:

EFFECTIVE:

ISSUED BY:
B. G. HAVDAHL - GENERAL MANAGER
501 NORTH SANDERS AVE.
HELENA, MT 59601

TESTIMONY OF LYLE DOTY
BEFORE THE HIGHWAYS AND TRANSPORTATION COMMITTEE
THURSDAY, FEBRUARY 7, 1991

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE:

MY NAME IS LYLE DOTY. I AM A RESIDENT OF FLATHEAD COUNTY AND I LIVE IN KALISPELL, MONTANA.

I AM IN THE LOG TRUCKING BUSINESS AND I HAVE BEEN FOR TWENTY-FIVE YEARS. I HAVE FOUR LOG TRUCKS, AND I EMPLOY 3 DRIVERS AND I OPERATE ONE TRUCK MYSELF. I AM HERE TO ASK FOR YOUR SUPPORT OF HOUSE BILL 192, ON ECONOMIC LOG TRUCK REGULATION.

THE LOG TRUCKING INDUSTRY IS IN A SERIOUS STATE OF DETERIORATION, BECAUSE OF THE LACK OF REVENUE. MANY OF THE LOG TRUCK OWNERS ARE OPERATING OLD AND OUTDATED EQUIPMENT. THE MAINTENANCE OF THEIR EQUIPMENT IS VERY MINIMAL AND IN SOME CASES NOT AT ALL. THE LOG TRUCK INDUSTRY IN VIEW OF THE NEW FEDERAL DEPARTMENT OF TRANSPORTATION RULES AND REGULATIONS, FACES A SAFETY CRISIS.

OVER THE PAST 10 YEARS THE INDUSTRIES REPLACEMENT COSTS HAVE DOUBLED. OUR MAINTENANCE COST OF TIRES, FUEL INCREASES, REPAIRS, LABOR COSTS, INSURANCE RATES, AND TAXES, HAVE ALSO INCREASED TO THE POINT THAT THE LOG TRUCK INDUSTRY CAN NOT AFFORD TO MAINTAIN THEIR EQUIPMENT PROPERLY. THEREFORE, WITH NO MAINTENANCE COST INCREASES, THIS IS CREATING MANY SAFETY PROBLEMS.

IT HAS BECOME ALMOST IMPOSSIBLE FOR THE LOG TRUCKER TO STAY IN BUSINESS. THERE HAVE BEEN NO INCREASES IN CARRIER RATES FROM EITHER THE SHIPPER OR MANUFACTURER IN THE PAST 10 YEARS, WITH THE EXCEPTION OF 2 SMALL MANUFACTURERS.

MUCH OF THE INTRASTATE TRUCKING ACTIVITY IS CURRENTLY REGULATED IN MONTANA AND HAVE BEEN FOR MORE THAN 50 YEARS. MOST STATES REGULATE TRUCKING OF INTRASTATE FREIGHT. ~~14~~ STATES PRESENTLY REGULATE LOGS IN SOME FORM OR WAY FROM THE FOREST TO THE MANUFACTURER (MILLS).

LOG TRUCK OWNERS CAME TO THE DECISION TO ASK FOR ECONOMIC REGULATION AFTER A GREAT DEAL OF THOUGHT AND CAREFUL CONSIDERATION. ECONOMIC REGULATION WILL CHANGE THE LOG TRUCK INDUSTRY. REGULATION WILL NOT HARM ANY OTHER ASPECT OF THE TIMBER INDUSTRY, WHETHER IT IS THE SHIPPER OR THE MANUFACTURER. CARRIER RATES WILL BECOME AN OPEN PROCESS BASED ON ACTUAL COSTS. THE CURRENT SYSTEM IN SETTING CARRIER RATES IS OUTDATED AND IS NOT CURRENTLY WORKING.

EXHIBIT

7

DATE

2-7-91

HB

192

MR. CHAIRMAN AND MEMBERS OF THIS COMMITTEE, I AM ASKING FOR YOUR STRONG SUPPORT IN* HOUSE BILL 192 FOR ECONOMIC LOG TRUCK REGULATION. LOG TRUCK OWNERS ARE SMALL BUSINESSMEN, BUT BECAUSE OF THE CONCENTRATED POWER IN MONTANA'S TIMBER INDUSTRY, THEY HAVE LOST CONTROL OF THEIR BUSINESSES AND ANY CHANCE OF A FREE ENTERPRISE ENVIRONMENT.

IN ASKING FOR YOUR SUPPORT OF HOUSE BILL 192 ON ECONOMIC LOG TRUCK REGULATION, WE ARE GIVING BACK TO THE LOG TRUCK OWNER CONTROL OF HIS OWN DESTINY AND WELFARE. IT WILL ALSO GIVE THE LOG TRUCK INDUSTRY A CHANCE TO MAKE ITS OWN DECISION AND TO GOVERN ITSELF.

I THANK YOU FOR YOUR TIME AND ONCE AGAIN I ASK FOR YOUR SUPPORT ON PASSING HOUSE BILL 192.

EXHIBIT 8
DATE 2-7-91
HB 192

Dave Brandt Trucking
Box 412
Eureka, Mt. 59917

HELLO COMMITTEE MEMBERS:

MY NAME IS DAVE BRANDT AND I RESIDE IN EUREKA, MT., AS I HAVE FOR 20 YEARS. I HAVE OWNED AND OPERATED LOGGING TRUCKS FOR 17 YEARS. MAYBE SOME OF YOU REMEMBER ME FROM TWO YEARS AGO. I CAME TO HELENA AND SPOKE AND LISTENED TO WHAT OTHER PEOPLE HAD TO SAY. ONE FELLOW IN PARTICULAR THAT STUCK IN MY MEMORY WAS A GENTLEMAN BY THE NAME OF DON ALLEN, WHO AT THAT TIME WAS EXECUTIVE DIRECTOR OF THE MONTANA WOOD PRODUCTS INDUSTRY AND PROBABLY STILL IS. I THINK HIS CLOSING STATEMENT WAS, "YOU FELLAS REALLY DON'T WANT THIS REGULATION AND WE WILL DEFINITELY TRY TO WORK WITH THE INDUSTRY TO CORRECT SOME OF THE PROBLEMS." THIS PROBABLY HAS HELPED ME MORE FULLY UNDERSTAND HOW PRESIDENT BUSH FEELS AFTER 6 MONTHS OF TRYING TO TALK TO SADDAM HUSSEIN.

I HAVE HAULED INTO APPROXIMATELY 15 DIFFERENT SAWMILLS IN NORTHWEST MONTANA DURING MY CAREER. THIS SEASON I HAVE HAULED INTO PROBABLY 6 OF THESE MILLS FOR AT LEAST A MONTH OR MORE EACH. THIS GIVES ME WHAT I BELIEVE TO BE A BROAD EXPOSURE TO DIFFERENT MILLS AND HOW THEY WANT TO PAY MY SERVICES.

IN MY OPINION ONE OF THESE SAWMILLS IS VERY FAIR TO THE LOG HAULER, AND ONE IS VERY UNFAIR IN THE WAY THEY PAY FOR HAULING LOGS. THE OTHER FOUR IN BETWEEN THESE EXTREMES CAN BE FAIR TO THE TRUCKER, BUT ARE NOT CONSISTENT AT IT. THE QUESTION THAT I ALWAYS FIND MYSELF TRYING TO DEAL WITH IS, WHY IS THIS SMALLER FAMILY-OWNED SAWMILL ABLE TO BE FAIR WHEN THE LARGE CONGLOMERATE CORPORATION MILLS ARE TRYING TO LEAD THE WAY IN WAGE REDUCTIONS IN ALL PHASES OF THE TIMBER INDUSTRY? THEY HAVE DONE A GOOD JOB OF PITTING THE LOGGER AGAINST THE TRUCKER, LOGGERS AGAINST LOGGERS, BIDDING FOR THE JOB TO MAYBE PAY THE HAUL RATE OR MAYBE PAY WHATEVER THEY CAN GET AWAY WITH. I BELIEVE THAT HB 192 WOULD MAKE THE TIMBER INDUSTRY MORE FAIR FOR ALL PARTIES CONCERNED.

EXHIBIT 0
DATE 2.7.91
HB 192

Dave Brandt Trucking
Box 42
Eureka, Mt. 59217

YOU COMMITTEE MEMBERS SITTING THERE AND LISTENING TO ME PROBABLY THINK I SOUND LIKE A BROKEN RECORD. WHAT'S THIS GUY TALKING ABOUT? IF HE SAYS LOG TRUCKING IS SO BAD, WHY THE HELL DOESN'T HE GO FIND ANOTHER JOB TO DO ? WELL, MY ANSWER TO THAT QUESTION IS, WHY SHOULD I HAVE TO? LOG TRUCKING IS MY PROFESSION; I LOVE IT. I FEEL I AM PROVIDING A NECESSARY SERVICE TO THEM AT THE MOST REASONABLE RATE I CAN PROVIDE IT AND STILL SQUEEZE OUT A LIVING. THAT IS WHERE SOME OF THESE MILLS KEEP TAKING ADVANTAGE OF A GOOD SITUATION. THEY'VE SQUEEZED US ALL AND TRIED (MOST CASES SUCCEEDING) TO KEEP US WORKING AS CHEAPLY AS POSSIBLE. IN SPITE OF IT ALL I HAVE WORKED HARD TO ACQUIRE THE NEEDED EQUIPMENT AND FACILITIES TO DO A GOOD JOB OF LOG TRUCKING. I WISH I COULD JUST COME OUT AND SAY EVERY JOB I HAUL LOGS ON I MAKE A GOOD INCOME, BUT THAT WOULDN'T BE QUITE ACCURATE. AND I KNOW YOU HAVE TO TAKE THE BAD WITH THE GOOD. AND I REALIZE HB 192 FOR SOME JOBS MAY NOT PROVIDE ANY MORE MONEY THAN THEY MAKE NOW. BUT I THINK IT WOULD EVEN UP THE LOG TRUCK INDUSTRY TO WHERE WE WOULD ALL MAKE A COMPARABLE LIVING.

*At whatever
Mill or part of Montana we are working in-*

Mr. Chairman and Members of the Committee

For the record,

My name is Patricia A. Slack, Corporate Secretary for James A. Slack Logging & Trucking. I am here to speak in favor of House Bill 192, because log trucking is a viable part of the timber industry, and these LOG TRUCKERS are entitled to earn a fair living.

My husband, James A. Slack, and I bought our first log truck in 1959. We have been operating logging trucks for 32 years in the Flathead valley. We have had as many as twelve trucks at one time and are presently operating five logging trucks. In 1979 we sold some of our trucks because we found that log trucking was not very profitable. I have always done all the bookwork for our business. In 1986 we included in our business the logging (or shipping) part of the business in order to keep our trucks busy and to insure that the trucks receive a fair price for hauling logs.

In my testimony I will refer to the mills as the manufacturer, the loggers as the shipper, and the log trucker as the carrier.

First some definitions:

What is a LOG TRUCK? A log truck is a conveyance that is used to transport processed logs from the woods or shipping point to the mill or manufacturer.

What is a LOG TRUCKER? A log trucker is a person who drives a log truck. He may either be employed by someone who owns the

EXHIBIT 9
DATE 2-7-91
HB 192

logging truck or, as in most cases, he may own his own log truck. After this he shall be called the carrier.

What are the MILLS? The mills, or manufacturer, are where logs are taken to be processed into lumber, plywood, chips, hog fuel, etc. These processed products are then shipped by carrier to the consumer. The carriers of these processed products are all regulated.

What is a LOGGER? A logger is a contractor who contracts with the manufacturer to process the trees into logs to be hauled into the mill by a log trucker. His contract is usually for a fixed price for cutting the trees, delimbing and sorting them, and transporting this now processed log to the mill, therefore he is responsible to hire and pay the log trucker. He is allowed by the State and Federal government to either put the log trucker on the payroll and be responsible for all taxes, unemployment insurance, and worker's compensation insurance (which must be paid on 25% of the trucks gross), or he can subcontract, with a written contract, to a carrier to get the logs to the mill. The carrier then must carry his own Worker's Compensation insurance and pay all his own taxes. According to our instructions from the State Worker's Compensation office and the Internal Revenue Service, who have audited us, we must have a written contract with a carrier other than our own trucks, to ship our logs to the mill. This contract must state a negotiated price for getting the logs to various mills, a time for payment, and a termination agreement. According to the State we must also have a copy of the carriers Worker's Compensation policy on

EXHIBIT 9
DATE 2-7-91
HB 192

a copy of his exempt (Independent Contractors) certification for Worker's Compensation. Our insurance carrier also requires a copy of the carriers liability insurance coverage in the limits that they state. Very few shippers have a written contract with the carrier, in fact, most carriers do not even know what they are getting paid for transporting these logs to the mill, or when they will get paid, until they receive their first check from the shipper.

What is an INDEPENDENT CONTRACTOR?

I have enclosed a copy of the legal definition of an INDEPENDENT CONTRACTOR according to the legal counsel of the State Fund as I am sure that you do not want me to read three pages of this.

From the late 1950's and into the 1960's one to five truck carriers were carried on the payroll by the shipper, who paid all the taxes including Worker's Compensation and unemployment insurance. As bigger manufacturers absorbed smaller manufacturers they began to call the carriers INDEPENDENT CONTRACTORS which in turn made them responsible for their own Worker's Compensation and Social Security insurance. The carriers were also without unemployment insurance. Some of the smaller manufacturers and shippers still keep the carrier on the payroll. We were now called INDEPENDENT CONTRACTORS, but most of us have no written contracts with the manufacturer or the shipper.

The shipper tells the carrier; what time to be on the job, how much weight to carry on our trucks, what route to take, and

EXHIBIT

9

DATE

2-7-91

HB

192

where to take the load of logs. This sounds like the definition of an employee. Maybe the shippers should have all the log truckers or carriers on their payrolls and pay their taxes and insurance. With regulation carriers would be INDEPENDENT CONTRACTORS.

Without a contract, the carrier does not know what the rate is, and when they will get paid, if ever. Some shippers do not pay for 30 to 120 days after the logs are delivered, sometimes using the excuse that "they have not yet been paid by the manufacturer". Many shippers do not pass along the full rate allowed for transportation in their contracts with the manufacturer, using this deduction for bookkeeping fees which perhaps should have been compensated for in the shippers overall contract. Also, some manufacturers, not located near state weigh stations, allow overweight loads to make up for the lower prices for hauling.

Also with the severe fuel increases we have incurred this year, some of the manufacturers have allowed fuel cost allowance increases in the haul rates to be adjusted according to fuel prices. Many carriers are not receiving these increases from the shippers.

Without a contract, if a carrier goes to the manufacturer with a complaint, he is told to talk to the shipper (or logger) and he often can't negotiate with the shipper because he does not have a contract.

If the carrier is not paid a fair rate he is not able to

EXHIBIT 7
DATE 2.7.91
HB 192

operating condition. Many truckers are forced to neglect safety maintenance simply because there is not enough money to go around. Sometimes there is just not enough money for new tires or brakes when they are needed. Without compensatory rates, often the trucker's concern is to operate his truck in an unsafe condition until next payday when he will have enough revenue to correct the unsafe condition. That is, if they get paid on time.

We feel that House Bill 192 should be passed because the tariff will have a fair and just rate.

Thank you.

39-71-120. Independent contractor defined.

(1) An "independent contractor" is one who

renders service in the course of an occupation and:

(a) has been and will continue to be free from control or direction over the performance of the services, both under his contract and in fact; and

(b) is engaged in an independently established trade, occupation, profession, or business.

(2) An individual performing services for remuneration is considered to be an employee under this chapter unless the requirements of subsection (1).

As stated in the definition of employee, to establish an employment relationship of any kind, requires that an identifiable contract be a threshold determination. The contract may be oral or written, expressed or implied. The case at bar is an oral contract, if any. Sections 28-2-101, MCA et seq. cover the statutory considerations regarding contracts. In Section 28-2-102, MCA the law sets forth the four essential elements of a contract, namely:

- (1) identifiable parties capable of contract
- (2) their consent;
- (3) a lawful object; and
- (4) a sufficient cause or consideration.

Certainly Mr. Morris and Montana Forward had the capacity to contract and their consent is clear if for no other reason that on at least two occasions prior to the case, the same contract terms were executed. The object of Morris piloting candidate Waltermire was certainly lawful and the payment of \$100 per day plus expenses in exchange for piloting the aircraft, clearly satisfies the statutory requirements of consideration.

Thus, if Morris were not an "independent contractor" excluded from being an employee by the definition in Section 39-71-118, MCA, coverage exists.

In determining whether a person is an "independent contractor" or an "employee" for purposes of Workers' Compensation, the Montana Supreme Court has gone to great length to examine the issue. The leading Workers' Compensation case in this regard is Sharp v. Aetna Casualty and Surety Co., 178 Mont. 419, 584 P.2d 1298 (1978).

Beginning at page 424, of the opinion, the Court stated in Sharp, supra:

The statute involved in this appeal is section 92-438.1, R.C.M. 1947, which defines

"independent contractor" as one who renders service in the course of an occupation and:
"...(1) has been and will continue to be free from control or direction over the performance of the services, both under his contract and in fact; and
"(2) is engaged in an independently established trade, occupation, profession or business." (Emphasis added.)

This statute clearly establishes a two-part test that must be met before an individual is classified as an independent contractor. First, he must be free from the control of his employer, under his contract and in fact, in the performance of his services. Second, he must be engaged in an independently established occupation. Appellant has conceded she meets the second part of this test, so our concern is with the first requirement, the absence of the "right of control".

Section 92-438.1(1), R.C.M. 1947, reiterates the basic test in Montana for determining independent contractor status, namely, the right of control over the person doing the work involved. "The vital test in determining whether a person employed to do a certain piece of work is a contractor or a mere servant, is the control over the work which is reserved by the employer." Kimball v. Industrial Accident Board (1960), 138 Mont. 445, 449, 357 P.2d 688. "The test to determine whether or not an employer-employee relationship exists ...is the so called control test. Under that test an individual is in the service of another when that other has the right to control the details of the individual's work." State ex rel. Ferguson v. District Court (1974), 164 Mont. 84, 88, 519 P.2d 151. Respondent has argued an employer must control the details of a performance before the performer is considered an employee. However, the determinative test is based on the right, not just the exercise, of control. Larson, Workmen's Compensation Law, Vol. 1A, Sec. 44.10, p. 8-19; Ferguson, supra.

Section 92-438.1(1), R.C.M. 1947, also states in determining this right of control,

attention must be directed to the employment contract and the fact of the employment situation. In the present case, we have no written contract before us to aid in making the determination of freedom from control, and the parties have not contended for the existence of an implied contract. We therefore, must look at the factual situation, pursuant to the statutory direction, to determine whether respondent-employer had the right to control the work of appellant.

Larson's treatise enumerates four factors to consider when attempting to determine right of control in a given situation. Those factors are: (1) direct evidence of right or exercise of control; (2) method of payment; (3) furnishing of equipment; and (4) right to fire. Larson, Sec. 44.31, p.8-35. The treatise further points out that the consideration to be given these factors is not a balancing process, rather "...independent contractorship...is established usually only by a convincing accumulation of these and other tests, while employment ...can if necessary often be solidly proved on the strength of one of the four items [above]." Larson, supra.

We should note that Section 92-438.1 R.C.M. 1947 cited in Sharp is identical to Section 39-71-120, MCA in the case at bar.

The defense premises much of its case on the fact that Montana Forward exercised virtually no control over pilot Morris. We concur to the extent that the details of flying were subject to Morris' own skills. Yet, as noted in Larson's treatise cited in Sharp there are multiple considerations to establish "control" beyond the details of performance itself. The four again are:

1. direct evidence of right to exercise of control;
2. method of payment;
3. furnishing of equipment;
4. right to fire.

2/7/91

EXHIBIT 10
DATE 2-7-91
HB 192

JONES HAULING
HARLEY W JONES
2060 BUTTREY LANE
MISSOULA MT 59802

DEAR REPRESENTATIVE MIKE FOSTER:

I AM CURRENTLY AND HAVE BEEN HAULING LOGS AS AN OWNER OPERATOR FOR 20 YEARS. I FEEL IT IS TIME FOR REGULATION OF THE LOG TRUCKING INDUSTRY. I'VE STATED BELOW 10 FACTS AND REASONS TO SUPPORT HOUSEBILL 192.

I WOULD LIKE TO ADD THAT FROM THE TIME I LEAVE HOME IN THE MORNING UNTIL I SHUT THE TRUCK OFF AT NIGHT, I AVERAGE 12 TO 16 HOURS A DAY. FOR MY AVERAGE WORKDAY, THE PAY IS NOT AN ADEQUATE WAGE TO MAINTAIN MY EQUIPMENT AND PROVIDE FOR MY FAMILY. WHEN THIS REGULATION PASSES, I WOULD HAVE A SAY IN NEGOTIATING FAIR WAGES TO COVER MY EXPENSES, AND MY EFFORTS PUT FORTH.

1.) CURRENT HAULING ARRANGEMENTS ARE VERBAL AND ON A TAKE-OR-LEAVE-IT BASIS. IF A GIVEN LOG TRUCKER DOES NOT AGREE TO THE VERBAL RATE BECAUSE IT IS NONCOMPENSATORY, THE CONTRACTOR OR SHIPPER ATTEMPTS TO FIND ONE WHO WILL.

2.) LOG TRUCKERS TRYING TO PROVIDE TRANSPORTATION SERVICES, FIND AT TIMES, THE RATES PAID TO THEM TO BE UNFAIR, INCONSISTENT, ARBITRARY AND SUB-STANDARD FOR THE SERVICE.

3.) UNDER CURRENT MOTOR CARRIER LAW, LOGS ARE CONSIDERED TO BE A NON PROCESSED AGRICULTURE COMMODITY AND ARE EXEMPTED FROM THE ACT AND THERE IS NO REGULATION REQUIRING WRITTEN CONTRACTS OR RATE SETTING BY THE MOTOR CARRIER ACT FOR LOG TRANSPORTATION BY TRUCK.

4.) HOUSE BILL 192 WOULD PLACE LOGS UNDER THE INTRASTATE MOTOR CARRIER ACT AS A REGULATED COMMODITY, ALLOWING COMPENSATORY RATES TO BE ESTABLISHED, EITHER AS AN INDIVIDUAL CARRIER OR AS A GROUP WITH IMMUNITY FROM ANTI TRUST LAWS.

5.) THE MOTOR CARRIER ACT HAS BEEN IN EFFECT FOR 60 YEARS IN MONTANA TO INSURE FAIR RATES AND A TRANSPORTATION SYSTEM FOR A LARGE NUMBER OF COMMODITIES TRANSPORTED WITHIN MONTANA EITHER UNDER WRITTEN CONTRACT OR BY COMMON CARRIAGE. RATES ARE ESTABLISHED BY OR FILED WITH THE MONTANA PUBLIC SERVICE COMMISSION.

EXHIBIT 10
DATE 2-7-91
HB 192

6.) HOUSE BILL 192 ESTABLISHES A SPECIAL CLASS OF CARRIERS, CLASS E, TO TRANSPORT LOGS IN THE STATE EITHER UNDER A WRITTEN CONTRACT OR AS A COMMON CARRIER.

7.) HOUSE BILL 192 WOULD REQUIRE WRITTEN CONTRACTS FOR TRANSPORTATION OF LOGS BY TRUCK. ALTHOUGH CURRENT LOGGING INDUSTRY PRACTICES INCLUDE WRITTEN CONTRACTS BETWEEN MILLS AND LOG CONTRACTORS WHICH INCLUDE COSTS FOR CUTTING AND TRANSPORTING LOGS PLUS A PROFIT, GENERALLY NO SUCH WRITTEN CONTRACT IS IN EFFECT BETWEEN THE LOG CONTRACTOR, WHO IS GENERALLY THE SHIPPER OF THE LOGS AND THE LOG TRUCKER.

8.) HOUSE BILL 192 WOULD REQUIRED THAT RATES FOR LOGS TRANSPORTED UNDER "COMMON CARRIAGE" BE COMPENSATORY AND APPROVED BY THE PUBLIC SERVICE COMMISSION.

9.) HOUSE BILL 192 WOULD PROVIDE FOR CONTRACT HAULING AND CONTRACT RATES MAYBE ALSO ESTABLISHED AND FILED WITH PSC.

10.) RATES TO BE ESTABLISHED WITH PSC APPROVAL BY LOG CARRIERS INDIVIDUALLY OR COLLECTIVELY MUST BE FAIR AND BASED ON THE COST OF THE SERVICE. SHIPPERS WOULD HAVE INPUT TO PSC FOR RATE ESTABLISHMENT.

YOUR SUPPORT WOULD BE GREATLY APPRECIATED FOR THE PASSAGE OF THIS BILL.

FOR FURTHER QUESTIONS, PLEASE CONTACT ME AT 258-6433.

SINCERELY,
JONES HAULING

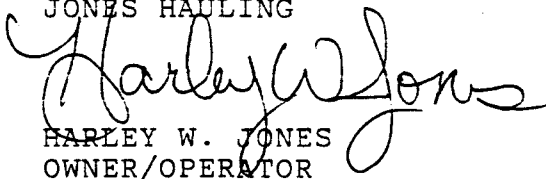

HARLEY W. JONES
OWNER/OPERATOR

EXHIBIT 11
DATE 2-7-91
HB 192

Mr. Chairman, Members of the Committee:

My name is Arletta Mrgich. I reside at 3112 Sinclair Creek Road in Eureka, Montana.

My husband Michael and I have owned and operated a log truck since 1964. We support House Bill 192. We feel that this bill will give us some stability in our industry for the first time.

I spoke before this committee two years ago, telling you of our financial plight. You heard testimony from both sides of this issue.

The truckers who spoke against regulation had two main fears. The loss of their jobs and undue regulation.

In the past 27 years, every time we asked for a raise, the mills threatened to buy their own trucks. That is certainly nothing new. They obviously couldn't own their own trucks as cheaply as we work or all the mills would own all the trucks.

Safety regulations, as in hours of service and DOT (CVSA) inspections came to pass anyway. I'm sure more will follow; with or without regulation.

Under current regulation, other Montana trucking businesses have a contract that, among other things, spells out hauling rates. Some trucks do have contracts now, but they are for the purpose of Workers Compensation liability, not rates. An ideal situation for us would be to have a written contract with either the logger or the mill.

If the logger works for a mill, he usually has a written contract that includes costs for cutting and transporting logs. A

contract would allow us to know, before we turn a wheel, how much that job pays. As things stand now, we usually have to wait until we get our paycheck to now what the rate is. The hauling rates are set between the logger and the mill in their contract. Or if the logger bids a Forest Service sale, he must take the hauling distance into account, but he doesn't ask the trucker to suggest a rate.

Most mills will not tell the trucker what a job pays. They say it is between the logger and the trucker. Most loggers pay the allotted rate to the trucks though there are a few loggers who routinely withhold a part of the truck rate to help pay for their logging costs.

We don't have this luxury. Fuel is our biggest expense. When the cost of fuel sky rockets and our rates don't change to reflect this increase, we fall further behind economically. Regulated truckers are routinely paid a surcharge in addition to the regular rate when the price of fuel takes a large jump, as it did this fall. The shipper must see that the trucker gets this surcharge. We have heard that some mills are paying a surcharge. Mr husband has hauled to three different mills since the fuel hike and if the mills are paying a surcharge, we haven't received it.

We have been placed in a no win situation. The loggers say they can't afford to pay us more yet we have no say in setting a haul rate during the negotiations. I really don't think that the haul rate is even a very important part of the loggers negotiating. He is more concerned, as he should be, with his logging costs. But that still leaves the trucks left out of our own rate negotiation.

We have returned again to seek regulation because in the last two years nothing has changed. The same rhetoric and intimidation exist now as it did then.

We are not asking for outlandish rates or any pay

EXHIBIT

11

guarantees; just an equal footing and compensatory rate

DATE

2-7-91

I ask that you support this bill. Thank you.

HB

192

EXHIBIT 12
DATE 2-7-91
HB 192

OPPOSITION TO HOUSE BILL NO. 192

BY

**RICHARD R. COVERDELL
COLUMBIA FALLS, MONTANA**

EXHIBIT 12
DATE 2-7-91
HB 192

and I'm testifying against this bill, House Bill #192, for the same reasons. I'm against state regulation by the Public Service Commission.

There is no need for regulation of log hauling in Montana by the P.S.C. or any other state agency. What is needed is a state mandated contract between log shippers and haulers stating terms and conditions agreed upon by both parties.

I haul under contract and have done so for years. I have attached copies of my contract to this statement I'm making along with a sample copy of the itemized computer read-out sheets detailing one of the hauls for that pay period. The contract is a simple, easy-to-read form. It states what is expected of each party, shipper and hauler, or company and contractor. It states when I'll be paid, which is the 10th and 25th of each month. It states that the rate is a mutual agreement. This means I can negotiate without going to the P.S.C. for approval. It also contains what is required of me pertaining to insurance, etc.

This brings up a question in my mind as to who the Worker's Comp. carrier is when there is no contract.

When fuel costs started climbing this past year I negotiated to defray the higher costs. I didn't have to go to the P.S.C.

If I end up on a haul that the rate isn't adequate, I can negotiate. I don't have to go to the P.S.C. "Negotiate" -- mutual discussion. The American way! Free Enterprise!

The computer read-out sheets are very easy to decipher. The top sheet shows the hauling or pay period, hauler number (the

EXHIBIT 12
DATE 2-7-91
HB 192

computer knows me as a number), the sale number, and in some cases, the sale unit number. It also shows my name, the sale name, the weight hauled in tons and pounds, the cost per ton which was the hauling rate at that time, the number of loads I hauled off of that sale that pay period, and the amount I earned. The bottom sheet shows the load ticket number, and to the right of it is the gross, tare and net weights.

In the truck I carry what I call my "black book". In it I enter the sale name and load ticket number. When I weigh in and out at the mill I simply subtract empty from loaded weight and get my net weight.

Read-out sheets are sent to me 4 to 5 days before every payday. I compare my black book figures with the read-out sheets. If there is a problem I can "squeak." I don't need to go to the P.S.C.! I'm not "ripped off" so much a load by the shipper for paper and payroll costs like many haulers are.

There have been hauls where I can't get my legal gross weight because of poor timber. Dead lodgepole can take up a lot of room and yet have no weight. On these hauls I'm paid for a legal load. I've hauled cleanup loads where I'm not even half loaded. Once again, I'm paid for a legal load. Under P.S.C. regulation this will not happen!

I don't have to buy "bingo stamps", pay filing fees, or worry about how many contracts I have. I don't have to open my home and let a state inspector in to inspect my properties, facilities, operations, accounts, service, practices, and affairs. I don't

EXHIBIT 12
DATE 2-7-91
HB 192

have to file annual reports, tariffs, schedules, etc., etc. All of this would be required as quoted under House Bill #192.

There is nothing in this bill that says I will be better off financially. House Bill #192 is nothing but a bill to create what I already have -- a contract. A simple contract! The difference is that House Bill #192 says I will be regulated by the state and that tariffs will be negotiated by a tariff bureau which allows the majority to be ruled by a few.

Thank you for letting me testify.

Richard R. Coverdell

9. The Contractor agrees to comply with all State and Federal Laws and U.S. Forest Service Rules, including but not limited to those governing hauling, load limits, safety and comparable laws and rules.

10. The Contractor agrees to carry on his activities under this contract in a safe and/or legal manner so as not to endanger the person or property of the Company or it's employees, agents or other contractors.

11. It is specifically understood that the Contractor shall secure and keep in effect during the term of this contract and any period by which said contract may be extended, a policy or policies of public liability insurance sufficient to satisfy any and all possible claims for personal injuries or property damage arising from or as a result of the conduct of his operations under this contract. Evidence of this insurance must be filed with the company.

12. Contractor further agrees to hold the Company forever free and harmless from any and all claims, debts, or charges arising out of or as a result of the conduct of his operations in the performance of this contract.

13. It is further agreed that neither this contract nor any interest herein can be assigned by the Contractor, without the consent, in writing of the Company.

14. The contract cannot be altered, modified or deviated from, unless such alterations, modification or deviation shall be in writing and signed by the parties hereto.

15. This contract shall extend to and by binding upon and inure to the benefit of the Contractor, his heirs and personal representatives, and the Company, it's successors and assigns.

16. It is understood and agreed that this contract is not severable and that time is of the essence of the performance, and that, in the event the parties hereto shall fail to perform this contract, or any part thereof, at the time and in the manner specified except for a strike, riot, civil commotion, war, whether declared or not, or Act of God, either party may, at its option, with five (5) days written notice upon the other terminate this contract and either party shall have no further rights or interest under this contract. It is further understood and agreed that the waiver of one or more defaults shall not constitute or be construed as a waiver of subsequent defaults or an alteration of this contract or of the right of the Company to insist upon strict compliance of the term hereof.

17. This agreement shall remain in full force and effect to and including June 1, 1991, unless breached prior thereof and notice of termination is delivered in writing to the other party. This agreement may be continued for specific limited periods of time by endorsement herein so specifying such continuance, signed by each party hereto.

18. The log hauler and his employees will operate at all times in accordance with Best Management Practices as adopted by the Montana State Environmental Quality Council in January, 1989.

IN WITNESS WHEREOF: The parties hereto have duly executed this contract, the day and year hereinabove written.

WITNESSES:

Contractor

F.H. Stoltze Land & Lumber Company

EXHIBIT 12
DATE 2.7.91
HB 192

LOG HAULING CONTRACT

THIS AGREEMENT, made and entered into, in duplicate, this 1st day of May, 19 90, by and between Richard Coverdell of 995 Walsh Rd., Columbia Falls, MT party of the first part, hereinafter referred to as "Contractor" and the F.H. Stoltz Land & Lumber Company, a corporation, the party of the second part, hereinafter referred to as the "Company".

WITNESSETH: The parties hereto for and in consideration of their mutual covenants and agreement herein contained, do agree and contract with each other as follows:

1. For and in consideration of the sums hereinafter mentioned to be paid by the Company to the Contractor, the Contractor agrees and undertakes to provide all trucks and other equipment and all labor employed by him necessary to haul and deliver in an efficient and workmanlike manner customary to the log hauling trade and business to the Company at Half Moon or as designated, such sawlogs, poles and other forest products as said Contractor may be requested to haul from various surrounding areas in which saw logs, poles and other timber products may be produced by the Company, its servants, agents, employees, or contractors.
2. The schedule of payment shall be mutually agreed to by Contractor and Company. Payment will be made on a per ton mile basis.
3. The Company agrees to pay the Contractor in full for all sawlogs, poles and other forest products hauled. Payment shall be paid on the 25th of each month for logs delivered between the 1st and the 15th of such month, and on the 10th day of each month for logs delivered between the 15th of the preceding month and the 1st day of the present month.
4. The Contractor further agrees that all sawlogs, poles and other forest products shall be delivered to the Company free and clear of all liens, encumbrances or claims for labor, materials, or supplies, and, in the event any lien be filed or claim be outstanding for which a lien might be filed, the Company shall have the right to retain and keep enough moneys to protect itself from said lien or claim. The Company, at its option may demand and require production of receipts or satisfactory evidence showing payment in full of all labor employed in the performance of this contract and assessments or other payments accrued under State and Federal laws on account of labor employed under this contract, and no payments shall be made hereunder until such receipts, when demanded, have been presented to the Company.
5. The Contractor shall immediately take out, at his own expense, Workmen's Compensation coverage for every person in his employ and said Contractor shall otherwise fully comply with all of the Federal and State laws for each state in which he operates under this agreement relating to Workmen's Compensation and Industrial Insurance as well as Unemployment Compensation, and other appropriate State laws governing employers, as well as any amendments made effective during the term of this agreement.
6. The Contractor agrees that he will abide by the Fair Labor Standards Act of 1938, as amended, and the rules and regulations promulgated thereunder, as well as the Social Security Acts, Internal Revenue Acts and other Federal Acts as shall govern employers, together with the rules and regulations promulgated thereunder, and any amendments that may be made effective in said laws during the term of this agreement. The Contractor shall also comply with the Occupational Safety and Health Act, the Equal Pay Act of 1963, Title VII of the Civil Rights Act of 1964, The Age Discrimination in Employment Act of 1967, Executive Order 11246 of the President of the United States, Section 503 of the Rehabilitation Act of 1973, 38 U.S.C. 2012 of the Vietnam Era Veterans Readjustment Assistance Act of 1974, Employee Polygraph Protection Act, and any amendments that may be made effective in said laws during the term of this agreement.
7. It is agreed and understood that the parties hereto and in the relationship to each other of independent contractors and that the Contractor is contracting independently of the Company and that the parties in no way stand in the relationship of master and servant, principal and agent, or employer and employee. It is further understood and agreed that excepting as herein provided, the Contractor shall be and remain free from the direction and control of the Company in all particulars in the performance of this agreement.
8. The Contractor agrees to furnish all labor, supplies and equipment necessary to the performance of this agreement.

EXHIBIT 12
DATE 2.7.91
HB 192

HAULER COST DISTRIBUTION SHEET

JANUARY 1-15, 1990

HAULER: 84

RICHARD COVERDELL

SALE: 14-C49214

GROSS CONCEP PEST CONTROL

UNIT:

ACCOUNTS PAYABLE: 7-13210

	WGT/LBS	TON/VOL	COST	EXTENSION
HAULING TO STOLTZE MILL	810660	405.33	\$7.3793	\$2991.05

TOTAL DOLLAR AMOUNT: \$2991.05

NUMBER OF LOADS:

TRUCK: 15.00

RAILCAR: .00

EXHIBIT 12
DATE 2-7-91
HB 192

HAULER DETAIL LOAD REPORT

JANUARY 1-15, 1989

HAULER: 34

RICHARD COVERDELL

SALE: 14-045214

GRUBB CONIFF PEST CONTROL

UNIT:

TICKET/LOAD	WEIGHT	GROSS	TARE	NET	VOLUME
03391		79360	25900	53460	
03395		79900	25760	54140	
03400		79760	25840	54120	
03453		80240	26160	54080	
03458		79880	25620	54260	
03463		80620	25520	55100	
03466		79860	26000	53860	
03468		80260	25720	54540	
03473		79840	25700	54140	
03479		79660	25800	53860	
03483		79900	25640	54260	
03487		79580	26180	53400	
03492		80080	26000	54080	
03498		80420	26140	54280	
03503		79020	25940	53080	

1198580 387920 810660

TRUCK LOADS: 15.00
RAILCAR LOADS: .00



EXHIBIT 13
DATE 2-7-91
HB 192

Sun Mountain Logging

Sherm Anderson

P.O. Box 287
Deer Lodge, Montana 59722
February 7, 1991

TESTIMONY ON PROPOSED LEGISLATION TO REGULATE INTRASTATE LOG HAULING HB 192

Mr. Chairman, Members of the Committee:

For introductory purposes, I am Sherm Anderson, owner of Sun Mountain Logging Co. located in Deer Lodge, Montana. I am a logging contractor. I perform the complete logging process from felling, skidding, processing, loading and road building. Aside from logging, I own fifteen log trucks which operate within the Deer Lodge area hauling logs.

I have been in the logging business as a sole proprietor for fifteen years. Prior to that I worked with my father who was also a logging and log hauling contractor.

I oppose House Bill 192.

I cannot understand why we in the logging business would want to place more regulations on our industry than we already have.

In studying the proposed bill I can see no benefit to be gained from being regulated by the Public Service Commission. If the purpose of the bill is to regulate the amount of log trucks in the logging industry, it will not. I believe, if anything, it will cause the shippers, who control the loggers and truckers, to look more toward larger trucking firms to haul the logs, therefore

allowing shippers to deal with only one contract and one operator instead of many. This would create less need for the independent owner-operator type of operation as we know them today.

If the purpose of the bill is to regulate the price for hauling logs, I do not see how that can work either. It proposes that contract rates can be 90% of tariff rates, which would again push shippers toward larger contractors for a lesser rate. If we were able to get the tariff rates up higher and more profitable than current rates why, then, wouldn't we see the shippers, mainly being either the logging contractors or mills, purchasing and operating their own trucks, hauling their own logs under private carrier status, therefore not being regulated at all.

Our industry has so many variables throughout the state that other industries are not confronted with such as the haul roads off highway, the weather, the mud, the snow, the working hours, the loading and unloading conditions, the number of different jobs being operated on, that I do not see how workable tariff rates could be established and filed with the PSC on a timely basis.

Aside from all the reasons aforementioned, there are a lot of unforeseen problems that may crop up from the PSC itself. Once the bill passes then we are subject to the rule-making process of the PSC and are governed or regulated by their governing body.

Mr. Chairman and Members of the Committee, I respectfully recommend a no pass on this bill.

EXHIBIT 14
DATE 2-7-91
HB 192

Any Committee Members with agricultural or military experience should be able to relate to logging and log hauling. They, like we knew that the best laid plans must be modified daily and even hourly to keep abreast changes in weather and outside agencies.

Many timber companies have several cutting contracts in many drainages going concurrently. Trucks are shifted from job to job some time trip to trip to meet various needs or to prevent harm to the environment. A couple of very common haul changes are caused by shortage of decking space or a rainstorm in a drainage where continued hauling could cause water quality problems. Currently a simple radio call to trucks enroute can divert us from one drainage to another thus preventing problems.

Haul routes are changed on a trip by trip basis to prevent safety or environmental problems. Our normal hauls are over three types of road - native, gravel and black top and may involve favorable or adverse grades.

How can a regulating agency keep up with rates where road surface and even routes can change so often? I don't think it would be possible.

Leroy Christofferson

Mr. Chairman, Members of the Committee:

EXHIBIT 15

DATE 2-7-91

HB 192

My name is Suellen Brady. I reside at 535 Reservoir Road in Whitefish, Montana. My husband, Sam, and I have owned and operated a log truck since 1975. I am here today to ask for your support for House Bill 192.

Since the Log Truckers Association was here at the Capitol two years ago asking for regulation, many of our problems have been made clear to you. You realize that we have NEVER been given the opportunity to negotiate our own hauling rates. We DO NOT have a contract with the shipper. We DO NOT have a contract with the contractor that spells out our hauling rates. Our contractor bids on a job with the shipper with hauling rates included. We are always TOLD what the rate is once we've started hauling, but our verbalization that the contract does not keep up with our increased expenses fall on deaf ears. We need a contract that spells out what we will be receiving PRIOR to any hauling

Contracting rates should be negotiated between the contractor and the shipper. Hauling rates should be negotiated between the hauler and the shipper. I would not tell a contractor what he should bid for a job because I am not current, nor interested in what his expenses are. He, on the other hand, should not be responsible in keeping track of trucking expenses.

Some people against regulation say the paperwork is too demanding. I say good bookkeeping is a plus for any business. Some people against regulation say it will put the contractors out of work. I say it will do just the opposite. These contractors will be able to take care of their own business, and not some truckers' besides. Becoming regulated develops clear and precise contract between the two parties concerned about hauling prices. I don't understand contractors or trucks fighting regulation.

Regulation keeps things above board, and in writing. Maybe that's the whole point. What is there to hide in a contract? We will get rid of the middleman, and therefore rid them of the confusion, or any surprises concerning compensation on our part.

EXHIBIT 15
DATE 2-7-91
HB 192

For example, last fall we hauled for a contractor who held out money from our paycheck. A call to this contractor revealed that this money was for the shippers fire liability that every truck was required to pay. It only amounted to \$2.33 for the two loads we hauled, but he said it averaged out to \$432 a year for his regular haulers. We have NEVER been charged this fee with another contractor even though we haul for the same shipper. Why would the shipper require one contractor to withhold this money and not the other contractor?

We all know about inflation. Regulation would let us keep up with the spiraling costs of fuel, parts and labor. As recently as our last paycheck we are receiving 17 cents a ton LESS than we were in 1986. Our job today is side by side from the job we hauled on in 1986, so the distance is the same, the destinations are the same, the shipper is the same, the contractor is the same, yet our earning power has DECREASED. Not stating other increased costs, our fuel alone has jumped from 89 cents a gallon in 1986 to upwards of \$1.53 on this job. If we were regulated, we would have been able to spell out our operating costs which would have reflected these higher fuel costs prior to hauling any logs. At least we would have been given the chance to reflect on the contract and turned it down if it was a negative business deal. There is no negotiating. It's TAKE IT OR LEAVE IT!

How would you feel if YOUR current wages started to RETROGRADE and your complaint fell to deaf ears? Would you not also take steps to develop a mediator, or regulations laws, that would prevent that from happening again? That is why we are here today. Opponents cannot deny that any

business needs to have a positive flow of compensation. The issue may seem
futile to them, but it is crystal clear to me. WE ARE EARNING 17 CENTS A
TON LESS plus the loss of increased fuel costs, parts, labor & other
inflationary indexes THAN WE DID 5 YEARS AGO. I wouldn't scoff at the
notion that we will soon be told we have to haul for even less. Where does
it stop?

EXHIBIT 15

DATE 2-7-91

HB 192

We need your vote on House Bill 192 for our economic viability. We are
trying to develop a stable economic basis for log haulers.

Most all of Montana's motor carriers are regulated. Log haulers are not
because a log is considered a non-processed agriculture commodity,
therefore requiring NO written contracts. I believe that once these trees
are cut, delimbed, and placed on our truck, they have been processed.
Therefore, we would be allowed to have a written contract spelled out under
current motor carrier law.

I would like to say that since we were here 2 years ago that nothing has
changed. Unfortunately, we are being taken advantage of even worse. Please
give us the chance to negotiate our own hauling rates. Who knows better
than us what our operating costs are. Give us the right to conduct our own
businesses in a fair and equitable manner without FEAR, INTIMIDATION, and
CUT-RATE tactics. Nobody is asking for guaranteed income, guaranteed
profits, or guaranteed jobs. We are asking to be treated as businessmen
and women. We would like to carry out our businesses in a respected
manner, including being fairly compensated for our equipment and our time.

Thank you for your time.

HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

1 of 2

Seed Potato
B:11

Hiways

COMMITTEE

BILL NO.

HB 37

DATE 2-7-91

SPONSOR(S)

Rep. Davis

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
GARY GILMORE	MONT. D.O. H.		X
Russell E. Wrigg	IL IL		X
Nan Lake	Montana Potato Growers	X	
Sid Schutter	Montana Potato Growers	X	
John Cramley	Montana Potato Growers	X	
Art Mangels	self	X	
Walter Christoff	Self		X
Dan Kimm	Manhattan Potato Pro.	X	
Brent Anderson	Canister Logging Inc		X
Neil			
Daniel H. High	Brooks's Ranch Inc.	X	
Pat Wilhelms	Self		X
Mike Sun	Montana State Univ	X	
Nick Schutter	Potato Growers	X	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS
ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

2 of 2

Seed Potato
Bill

Hiway COMMITTEE Rep Davis BILL NO. HB 37
DATE 2-7-91 SPONSOR(S) Rep Davis

PLEASE PRINT

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PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Dale Huhnig	Potato Grower	X	
Francis Kohnke	Ex L L	X	
DAVE GALT	Dept of Highway		X
Robert & Sharon Snell	Flat. Potato Growers	X	
Ken Coffey	La Ke Potato Grower	X	
Earl M. Wahlen	Potato Rowan	X	
Ed Starkel	Potato Grower	X	
John Starkel	Western Ag	X	
Nell Mangels	Potato Grower	X	
Barry Jones			

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HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

Log Bill

Hiways COMMITTEE BILL NO. HB 192
DATE 2-7-91 SPONSOR(S) Rep Wenzelried
PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Jim Blue Darby mt	Self	X	X
Bill Noble	Stoltz Conner		X
Anna Pomanchev	Pomanchev Logging		X
Bryon Murrell	Self - B+M Logging		X
Scott Burnham	Self L.T. Trucking		X
RICHARD R. COVERDILL	SELF		X
Neil Meyer	Neil Logging		X
Brent Anderson	Conifer Logging		X
Dale Hunkeler	Potato Grower		
Arletta Mrgich	self	X	
Lyle Doty	LTC	X	
Sue Ellen BRADY	SELF	X	
Darby W Jones	Jones Hauling	X	
Mary Lou Peterson	HP #1	X	

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HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

Log Bill

DATE 2-7-91 SPONSOR(S) Rep. Wanzelried COMMITTEE _____ BILL NO. HB 192

PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Denny McManus	Self	X	
Foot McManus	Self	X	
Wm. Cuddy	Self		X
Barton Cooper	Self		X
Martin Jawbrow	PSC	— NA —	
Seny Christoffen	Self		X
Bill Cussins	Self		X
Bill CowGER	SELF		X
Joann Cowger	Wife		X
Art Perry Sr.	A Perry Logging		X
Jay Hargrove	Hargrove Trucking		X
Donald A. Ray	Self Trucking		X
Shum Anderson	Shum Mountain		X
Jacque Christoffen	Self		X

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HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

HIGHWAYS

COMMITTEE

BILL NO. 192 LOGGING

DATE 2-7-91 SPONSOR(S) REP WANZENREID

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
James H Slack	Slack Logging	✓	
RAY DUDLEY	DUDLEY Trucking	✓	
Harley W Tones	Tones Hauling	✓	
HERB ORR	Herb Orr Trucking	✓	
Battu Slack	Slack Trucking	✓	
Harry Schneider	Schneider Trucking	✓	
Ed & L Schrader	Schrader Log hauling	✓	
Trevett Adkins	Adkins Trucking	✓	
R. P. Adkins	Adkins trucking	✓	
Jerry Bibb	Hankinson Trucking	✓	
Ed Hankinson	Ed Hankinson Trucking	✓	
John Hankinson	Hankinson Trucking	✓	
Gary Ay	G & L Hauling	✓	
Noie Ay	G & L Hauling	✓	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

4 of 6

HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

HIGHWAYS COMMITTEE BILL NO. 192 LOGGII
DATE 2-7-91 SPONSOR(S) REP WANZENRIED

PLEASE PRINT

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PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Kurt Vaughn ^{VAUGHN}		✓	
Ted Smith	SELF		✓
Ray Cebulski	Cebulski Trks, Inc.		✓
BARB CEBULSKI	Cebulski Trucking, Inc.		✓
Dixie Meyer	Self		✓
Carla Anderson	Conifer Logging Inc		✓
Lonnise Hankinson	Lonnise Hankinson Trucking	✓	
VERN Fredericks ^{Kila MT.}	Self 755-2378		✓
Clairice Coverdell ^{Columbia Falls}	Self 892-5824		✓
Dorothy Fredericks ^{Kila Mt.}	Self 755-2378		✓
Judy McBeth ^{Kila Mt.}	Self 755-1806		✓
m. McBeth ^{Kila Mt.}	Self 755-1806		✓
Mike McBeth ^{Kila Mt.}	Self 755-1806		✓
Ron Newton ^{Columbia Falls}	892-4132 Self		✓

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HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

HIGHWAYS

COMMITTEE

BILL NO.

192 LOGGING

DATE 2-7-90

SPONSOR(S)

REP WANZENREID

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Rita & John Boss Jr. 851 ASH ST. KalisPELL, Mont.	self		X
Edna L. Newton 1167 Dorothy Ave Columbia Falls 892-4132	Self		✓
Carol J. Cresmore	237 airfield Rd Libby, mt. - self		✓
Paul Binkley	Kal 1602 Lincoln		✓
JOEL NELSON	33 SHALOM KERRY DR. - LIBBY	✓	
JOHN DAHLBERG	387 ROOTENAI DR. - LIBBY	✓	
Don Simpson	Kal. mt.	✓	
Brian Haughel	WITNESS	✓	
Warren L. Ewert warren Ewert	Kal. MT.	✓	
Leon E. Hylton	KalisPELL	✓	
Heleen Fielding	KalisPELL	✓	
ARVON FIELDING	ARVON FIELDING Trucking Kalispell	X	
Arvid Mitchell	Kal. Trucking Ac.	X	
MIKE MCGICK	Log hauling	X	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS
ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

6 of 6

HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

Highways COMMITTEE 192 BILL NO.
DATE 5-7-91 SPONSOR(S) Rep Wangerneid
PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Daniel M. Brandt	Dave Brandt Trucking	X	
Wayne Burt	Mont PSC		
Ben HAVDAHC	Mont. Motor Carriers Assn	X	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS
ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON HIGHWAYS & TRANSPORTATION

Call to Order: By CHAIRMAN BARRY STANG, on February 16, 1991, at 3:00 p.m.

ROLL CALL

Members Present:

Barry "Spook" Stang, Chairman (D)
Floyd "Bob" Gervais, Vice-Chairman (D)
Ernest Bergsagel (R)
Robert Clark (R)
Jane DeBruycker (D)
Alvin Ellis, Jr. (R)
Gary Feland (R)
Mike Foster (R)
Patrick Galvin (D)
Don Larson (D)
Scott McCulloch (D)
Jim Madison (D)
Don Stepler (D)
Rolph Tunby (R)

Members Excused: Rep. Howard Toole (D)

Staff Present: Valencia Lane, Legislative Council
Claudia Johnson, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

EXECUTIVE ACTION ON HB 309

Motion: REP. LARSON MOVED HB 309 DO PASS.

REP. MCCULLOCH moved to adopt amendment #1. On page 4, line 5, following "public" insert "and to repair areas developed by this program damaged by off-highway vehicles and donate up to 10 percent". EXHIBIT 1

Discussion:

REP. FELAND asked if this was previous damage. REP. MCCULLOCH said it is for previous damage and ongoing damage.

REP. FOSTER asked if these are off-highway areas that are damaged. REP. MCCULLOCH said yes.

REP. LARSON asked if the rest of the language after "public" was to be stricken. REP. MCCULLOCH said no.

Ms. Lane said it does not read right, but if the amendment is passed in concept, she will work on it.

Motion/Vote: REP. FOSTER called the question. Voice vote was taken. Motion CARRIED 13 to 4 with REP. BERGSAGEL, REP. STEPPLER, REP. CLARK and REP. NELSON voting no.

Motion: REP. LARSON MADE A SUBSTITUTE MOTION THAT HB 309 DO PASS AS AMENDED.

Discussion:

REP. ELLIS said he is not enthusiastic about the bill because of the loss of highway funds. He understands the intent of the bill and appreciates the concern. On his ranch, four wheel off-road vehicles are operated for work only. The hypothesis of how much fuel is used in recreational biking is not true. The only way he would support the bill is to cut the fee in half.

REP. TUNBY said he agrees with REP. ELLIS.

REP. FELAND said a lot of fuel is burned in off-road machines. This is an attempt to raise money to keep them all in one place instead of having them all over the countryside. Some trails would be developed, i.e., snowmobile trails.

REP. LARSON echoes REP. FELAND'S position. This is part of the big tourism industry. The money is from gasoline taxes for trail development. REP. LARSON recommended this bill be passed.

Motion/Vote: REP. STEPPLER moved to adopt amendment #2. Take the amount of the gas tax down to 1/8 of 1% to raise \$109,600 a year. REP. BERGSAGEL called the question. Voice vote was taken. Motion CARRIED 12 to 4 with REP. LARSON, REP. FELAND, REP. GERVAIS and REP. MCCULLOCH voting no.

Discussion:

REP. LARSON said the bill has been gutted. It is useless to place \$109,000 in a recreational trails package.

CHAIRMAN STANG asked if it will take a 3/5 vote on the floor of the House to use this money, because it is diverting highway funds to a different use. Ms. Lane said she would have to check into it. Normally, when a bill is drafted that requires a majority vote, it is placed in a section of the bill that states that.

CHAIRMAN STANG said he owns an off-road vehicle, and does not believe this will solve the problem. It wouldn't matter how many trails there are, people do not always stay on the trails.

CHAIRMAN STANG said he does not like taking highway funds to be used for something else, even a small amount.

REP. FELAND said many of the people who ride bikes, ride where they should.

REP. FOSTER said he understands the desire to have the full amount of money, but he felt the \$100,000 will move the program along.

Motion/Vote: **REP. BERGSAGEL** called the question to adopt amendment #2. Voice vote was taken. Motion CARRIED 12 to 4 with **REP. LARSON**, **REP. FELAND**, **REP. GERVAIS** and **REP. MCCULLOCH** voting no.

Motion/Vote: **REP. STEPPLER** MADE A SUBSTITUTE MOTION THAT HB 309 DO PASS AS AMENDED. Roll call vote was taken. EXHIBIT 2

Vote: HB 309 DO PASS AS AMENDED. Motion CARRIED 9 to 6.

EXECUTIVE ACTION ON HB 192

Motion: **REP. LARSON** MOVED HB 192 DO NOT PASS.

Discussion:

REP. LARSON said he is from a logging area is aware of and familiar with this problem. When this bill went to hearing, half of the people in the audience were for and half against it. When half of the constituency is against something, the committee should not impose regulation. There is no guarantee the people will get the same rate or better than they now receive. There is a real possibility regulation could force worse rates. On a hauling job whether road conditions deteriorate and the road becomes nearly impassable, they will still be required under this bill to haul those logs for that rate. Ninety percent of the proponents for regulation of log haulers came from the Flathead area. The opponents came from all over western Montana. That was significant and indicated a particular problem with mills in the Flathead Valley. There is a well-established flat rate called the Flathead Rate. It says a hauler can receive nine or ten cents on the highway, eleven or twelve cents on an improved county road, and sixteen cents on an unimproved logging road.

REP. LARSON suggested instead of state regulation, make a contractual requirement between the mill and contractor be established. The industry is downsizing at this time, they estimate that logging will be reduced by 25% in the next 5 years. This is not the time to impose regulation. He urged a do not pass.

CHAIRMAN STANG said this bill was heard last session. It was interesting during the hearing in this session, that no one was present from the Wood Products Association. Part of the agreement for not passing the bill last session was that the wood

products industry promised to get together with the log haulers and work something out. One meeting was held, than the wood products people would not work with the haulers anymore. It is frustrating when the mills are making profits and will not share it with the people doing the work. Truckers are independent and do not like regulation. **CHAIRMAN STANG** does not want this bill to be tabled, because whether it is a do pass or do not pass motion on the floor, the issue needs to be presented to the whole body to make a decision.

REP. FOSTER said his area has quite a bit of logging in it, but slow in reacting to this bill. Once they did, it was unanimous in opposition to the bill. He said there are problems, but is this the answer. He feels it isn't, and will not support the bill. He received a phone call from the Board of Directors of the Montana Logging Association, and they have decided against this bill.

CHAIRMAN STANG said it stands to reason the Logging Association would be against it, because the hauling is contracted out by the logger. The hauler wants to contract with the mill or run a rate so no one will skim the rate.

REP. STEPPLER said he has letters from all around western Montana that says someone told them not to come to this meeting. He does not know who told them that. The biggest problem he has, is that most of the haulers in the Flathead do not have written contracts stating what the rate is. The contract that was admitted as evidence has no rate stated and no means for negotiating any changes in that contract. **REP. STEPPLER** opposes the motion.

REP. ELLIS said his experience with regulated truckers comes in the livestock field and as a result is biased against regulation. He would support anything to mandate operating under contract.

REP. CLARK said people hauling to mills in his area do not want regulation. By the volume of mail from the Flathead the people are obviously able to organize. If they want to force the mills to give them contracts, they can get together and force the issue. **REP. CLARK** opposes the bill.

REP. FELAND said if the committee passes this bill, in five years there will be little competition left.

REP. MCCULLOCH said this is the second bill before the Legislature dealing with this sort of problem. There is a problem, and if it isn't addressed the committee will be remiss of their duties.

Motion: **REP. MCCULLOCH** MADE A SUBSTITUTION MOTION THAT HB 192 DO PASS.

Discussion:

REP. GALVIN said the truckers are screaming for help, but how to address it is another problem. He felt it should be put before the floor.

REP. TUNBY said he will vote to get it on the floor.

REP. GERVAIS agreed it should go to the floor.

REP. LARSON said he didn't have a problem with the bill going to the floor. This is imposing regulation on half the industry that does not want it. There are other alternatives. A solution might be a committee bill that would establish a firm contractual relationship between the contractor and the mill and specifies the rate. That is a simple relationship that can be forced on those mills.

CHAIRMAN STANG informed the committee that yesterday was the deadline to have a committee bill drafted.

REP. FOSTER said this is not a statewide problem. Apparently, there are problems in the northwest with some mills, but is it fair to stick everyone else because there are a few problems. This is not the right approach.

REP. BERGSAGEL said he would prefer to see it go to the floor with a do not pass recommendation. He will support it to get it on the floor, but will not support it on the floor.

REP. CLARK said this problem is in the Flathead, and is a regional problem.

Motion/Vote: REP. LARSON called the question. Roll call vote was taken. EXHIBIT 3

Vote: HB 192 DO PASS. Motion CARRIED 10 to 5.

EXECUTIVE ACTION ON HB 37

Motion: REP. LARSON MOVED HB 37 DO PASS.

Discussion:

REP. LARSON spoke to his motion. He distributed two letters received from Jesse Munro, GVW, and Larry Larsen, Director, Department of Highways. EXHIBIT 4 Both letters were written in mid-1989, suggesting there were not major problems with the potato haulers. This is a unique case as an agriculture product that is fairly critical in its timing and deserves special consideration. REP. LARSON recommended the bill do pass.

REP. FOSTER said there was discussion of an amendment to say something to the effect that potatoes are agricultural seeds.

CHAIRMAN STANG said the man who maintains these roads testified to the damage that is done by the potato haulers. The trucks carry legal weights, but it is impossible to keep track of the speeds. The roads that are damaged are the primary routes from the Portland-Seattle-Tacoma-Spokane area. People traveling to Glacier Park from that direction change their routes to avoid the chuckholes caused by the heavy traffic. It is not fair to give one group a preference over the others.

REP. ELLIS said there are restrictions on load limits for a purpose and has difficulty supporting this measure.

REP. TUNBY asked how many miles of road are affected. **CHAIRMAN STANG** said probably about 50 miles.

REP. TUNBY said it seems unacceptable to drive at a regular speed with too much weight and tear up roads. There should be some way to monitor the speed limit if one is imposed. The cost of monitoring the speed limit would be insignificant compared to the cost of roads.

Motion/Vote: **REP. GERVAIS MADE A SUBSTITUTE MOTION THAT HB 37 DO NOT PASS.** Question was called. Roll call vote was taken.
EXHIBIT 5

Vote: **HB 37 DO NOT PASS.** Motion CARRIED 10 to 6.

Motion/Vote: **REP. CLARK MADE A SUBSTITUTE MOTION THAT HB 37 BE TABLED.** Roll call vote was taken. **EXHIBIT 6**

Vote: **HB 37 BE TABLED.** Motion CARRIED 8 to 7.

HEARING ON HB 723

Presentation and Opening Statement by Sponsor:

REP. BOB PAVLOVICH, House District 70, Butte, said that **REP. PHILLIPS** conceded to combine his bill, HB 723 with this bill. They both raise funds for the veteran's cemetery at Fort Harrison. HB 723 will generate money from a special issuance of veterans' license plate, and HB 733 would generate money from the purple heart medal license plates. He said \$1 from each plate will be given to the state to cover the cost of printing the license plates, \$3 will go to the county for costs associated with the sale and \$6 will be used for the construction and renovation of the cemetery. **EXHIBIT 7 and 8**

Proponents' Testimony:

Rich Brown, Administrator, Montana Veterans Affairs Division, stated his support for HB 723 and HB 733. He presented written testimony. **EXHIBIT 9**

George Poston, United Veterans Committee of Montana, strongly supports these two bills.

Ron Davis, past Commander of the Military Order of the Purple Heart, and currently Adjutant for that Order, supports HB 723. The Order of the Purple Heart is awarded to members of the armed forces of the United States who are wounded by an instrument of war in the hands of an enemy and posthumously to the next of kin in the name of those who are killed in action or die of wounds received in action. There are over 25 states in the U. S. that have special Purple Heart license plates, and it is time Montana got in line with the rest of the country.

Hal Manson, American Legion of Montana, strongly supports both bills. The American Legion is involved with the cemetery and Mr. Manson is the commander of the military burials. It is a beautiful location, but it needs more money to make it look good. Some building and renovation of the grounds is needed. Much of the work is done by volunteers.

Dick Baumberger, Disabled American Veterans of Montana, is a member of the Cemetery Advisory Board representing the DAV. This is a good opportunity for veterans to have the option to support their own cemetery. There is a lot of work to do and concrete, long-term funding is needed. He urged support of both HB 723 and HB 733.

Opponents' Testimony: None

Closing by Sponsor:

REP. PHILLIPS said he is sure most people have seen military cemeteries like the Arlington cemetery, how neat and nice it looks. He asked the committee to take an opportunity to go to Fort Harrison and see what is there. There is federal money available on a 2 to 1 match. This will not require big bucks, but enough to do landscaping, underground sprinklers, sod and a building. He said the committee could decide if they want to combine the emblem for the veteran and the purple heart on the plates.

HEARING ON HB 751

Presentation and Opening Statement by Sponsor:

REP. BOHARSKI, House District 4, Kalispell, said HB 751 is to prevent the #1 cause of death of teenagers in the United States, which is drunk driving accidents. **REP. BOHARSKI** said he has

difficulty placing kids in jail and slapping them with big fines. When folks asked him to carry this bill, he realized that probably one of the things nearest and dearest to a high school student's heart is his driver's license. If driver's licenses are taken from young folks for altering IDs, perhaps they will think twice about doing some of these things. The statement is made that when students reach 15 or 16 years old, that they are responsible enough to make decisions for themselves. Teenagers like their freedom and they feel they are invulnerable. This problem needs the best mechanism that Legislature can find to prevent children from being maimed and killed in automobile accidents. There is a provision in the bill for a provisional license to drive back and forth to school.

Proponents' Testimony:

Leon Stalcup, Montana Restaurant Association, said more than 40% of all 15 to 19 year old deaths are the result of motor vehicle crashes. Half of the crashes are alcohol related, making it the #1 killer of young people. The indifference of society to the use of forged or altered documents to purchase alcohol is inexcusable. It leads to unsupervised, illegal experimentation with alcohol and inevitably to drunk driving, auto crashing, and maiming and death. **Mr. Stalcup** asked the committee to support HB 751. The department suggested it would be useful to have an amendment in the title 61-5-302 and add "or ID" behind the license in 1 through 6, so it gives the department more authority. **EXHIBIT 10**

Duane Tooley, Bureau Chief, Driver Services Division, said the actual affect of this bill will not change what is going on today as far as the driver's license is concerned. Licenses are suspended that are received with a statement that it was a falsified license used to obtain liquor. There is nothing in the statute that says the division can suspend a license or ID card for falsification and use of the ID card. **Mr. Tooley** supports the bill.

Questions From Committee Members:

REP. NELSON asked if there was a time period for the suspension.
REP. BOHARSKI said it is up to a year.

Closing by Sponsor:

REP. BOHARSKI said there were other supporters of this bill who were unable to attend the hearing. Written testimony from MADD and the National Restaurant Association was presented. **EXHIBIT 10** Currently, the language of the bill is under 21 years of age. There has been some discussion about leaving the drinking age at 21 or drop it down to 18. When the bill comes to the floor, **REP. BOHARSKI** will support any decision the committee makes.

HEARING ON HB 720

REP. GARY FORRESTER, House District 98, Billings, said HB 720 will require buses that are painted yellow and black and have the word "School" on them be school buses only. This would eliminate buses on public roads that are operated as campers or other vehicles that are yellow and black, and have the word "School" on them. The people that have these buses do not stop at the railroad tracks as state law mandates. He said his proponents could not come to the hearing.

Proponent's Testimony:

Jim Jensen, School Bus Operator, Bigfork, said it is good news to have this bill introduced. It will help their purpose and minimize the bad passes that are occurring.

Opponent's Testimony: None

Questions from the Committee:

REP. ELLIS asked if he could offer an amendment to this. He said in Red Lodge the schools use the buses to take the kids skiing. They place tape over word "school". REP. FORRESTER said if they have the word "school" on the bus it is O.K. The title of the bill reads "The marking of equipment that contains the word School".

REP. GERVAIS asked if this bill would have a grandfather clause in it. REP. FORRESTER said it would not the way it is written. REP. GERVAIS said there may be some problem in repainting the bus. REP. FORRESTER said there are problems loading and unloading children. REP. FOSTER suggested using the word "and" instead of "or".

Closing by the Sponsor:

REP. FORRESTER said he wished more supporters had been able to speak to the bill. He said this is a safety issue and needs to be addressed.

HEARING ON HB 711

REP. MARY ELLEN CONNELLY, House District 8, Whitefish, said HB 711 provides for a supplemental highway patrol retirement benefit. This bill was before Legislature two years ago, but it was amended too many times in the Senate. The \$.25 on the driver's license has been collected during the past two years. She distributed amendments. EXHIBIT 11 This bill would give an edge for inflation, because these people have not had an increase in the past ten years, and if they did it was \$10 per month. There are a number of retired highway patrol that are not eligible for Social Security because of the way the law was written.

Proponent's Testimony:

Gene Miller, Retired Highway Patrol Officer, Great Falls, said two years ago they came to the Legislature with hopes of getting health benefits for the retired, widowed and disabled, but there were problems for the state to do this. It would have raised the cost about 40%. He presumes the money collected would go to the general fund. The health costs keep rising. They plan on using the \$.25 for health costs or whatever the retired people need to buy.

Bill Yaeger, Montana Association of Highway Patrolman, handed in written testimony in support of HB 711. EXHIBIT 17

Tom Sanford, Retired Highway Patrol Officer, Kalispell, said during the first ten years of retirement there was an inflationary loss of about 40%. During this period, there was no provision for a cost of living. In the past, the state has not paid Social Security for its highway patrol officers. This has been a savings to the state. The career officer has no income from Social Security. Under HB 711, the older retirees receive more benefits than the more recent retirees. A person who retired early due to injuries sustained in shootings, etc, would receive a much larger share. Widows would also receive a much larger share. New retirees will not be eligible for any benefits until they have been retired for a full five years. They are asking that the \$.25 per license continue for the purpose of financing this bill.

Frank Williams, Retired Highway Patrol Officer, said he hoped the committee would give favorable consideration to this bill.

Opponent's Testimony: None

Informational Testimony:

Larry Nachtsheim, Public Employees Retirement Board, said the Board does not have a position on this bill. The board administers eight retirement systems. The bill as drafted and funded is a concern to the board.

Questions from the Committee:

CHAIRMAN STANG said the \$.25 is already in the registration fee, but according to the fiscal note, they have to increase the vehicle registration by 5% to generate payment. The bill shows on page 3, that it goes from \$5.25 to \$5.50, is that correct. **REP. CONNELLY** said she had been confused about that because of a similar bill that has \$450,000 that is now in the general fund, This bill will coordinate with that. The fiscal note is not accurate, because with the amendments and the coordinating section, that bill will no longer effect this bill. The \$.25 will just continue, and the other \$.25 will not be added.

Mr. Nachtsheim said if SB 192 passes, the \$5.50 will be changed back to \$5.25. One bill repeals for one purpose and the other adds it.

REP. FELAND asked if all of these funds are for retirement. REP. CONNELLY said the other bill is for the current retirees. It does not affect this bill at all, this bill is for the people that are retired now.

REP. FELAND asked how are the retirement funds being handled. Will they be sufficient for the future. He said why don't they pay enough into the system now. Mr. Nachtsheim said if this bill is passed, it would provide a lump sum payment. There is another minimum benefit provision in that retirement system, but what happens under that is the minimum benefits are capped at 60% of the officers' provisional optional salary. Eventually, they will all receive the same benefits.

Closing by the Sponsor:

REP. CONNELLY said it is important for the highway patrolmen to have a decent amount in their retirement. A widow of a sergeant with 25 year of service receives \$484 per month. She urged the committee's support for this bill.

HEARING ON HB 680

REP. THOMAS LEE, House District 49, Bigfork, said the bill that is before the committee is an effort to illicit help in the problem that the Flathead area is having in regards to Highway 35. He read an editorial from Big Fork's local paper of April, 1990. It said "It's a dumb way to run a road". It said Highway 35 presents a catch-22 situation. It is too narrow to qualify for federal highway money. The feds pay as much as 88% of the money spent on construction. The Highway Department spends millions upgrading the route around the west shore of Flathead Lake. Those on the east shore wouldn't mind the narrow, scenic road that services the area. Unfortunately, despite the state's neglect, Highway 35 remains the industrial haul-way of the Flathead Valley. Several near-misses between school buses and trucks occurred last winter. The state is building a super highway on the west shore while the traffic and the truckers travel the underfunded, deteriorating east shore highway.

Proponents' Testimony:

Cass Steele, self, lives on Highway 35, said her daughter arrived home late because a chip truck was jack-knifed with the bus behind it. She said it was the beginning of what they had all been feeling for the past year and a half. Many of the children are continually frightened by near misses not necessarily because of careless drivers, but because of the conditions of the road. EXHIBIT 12 They have tried to get the trucking industry to voluntarily regulate the times when they use the road. They have

not been able to do this. Governor Stephens sent a letter to the Executive Director of the Montana Motor Carriers, stating his concern about the school bus safety.

Andy Baxter, East Shore, said his daughter was on the bus that was nearly run down. He asked why they, as taxpayers, subsidize the trucking industry which refuses to use a federally-supported road. He urged the committee to support HB 680.

Rose Schiwenon, West Shore, said the bill is somewhat incomplete because they need to have some amended words to it. She noted on the back of the bill that it states this is Montana Highway 35, from the junction of highway 93, to the junction of 209, should be to the junction of 83. It would place the community of Bigfork back in the area. There are people that get on and off that road, and there is also a at that junction. The proposed amendment would establish a Highway Advisory Committee whose function would be to work with the Highway Department as a liaison with that department and residents of Bigfork and Polson who live along Highway 35. The first concern of the committee would be to initiate a study of a bike-way, walk-way along the route, and using existing easements. The committee would also make suggestions for improving safety along the route. The on-going committee would help with planning and implementing changes concerning the highway. There would be ten members on the committee, seven of these would be appointed by the elected representatives of the area, and three members would be appointed by the Tribal Council. There have been many attempts to deal with the problems through the Highway Department, and contacts with the Montana Motor Carriers Association. The Legislature is their last resort. She asked the committee to please consider the passage of HB 680. The Highway 35 road bed dates back to the 1930s. The trucks are now more frequent and longer. There are truck trains. Tourism is flourishing. They like to drive slowly and stop frequently for fruit stands. Residents allow time for this. The amendments would encourage low impact tourism. They hope destination tourists and could possibly bike around the lake. They are also concerned about fast trucks moving along the lake. The tankers with trailers do not have any buffer for any spills that happen. The Highway is substandard. There is no federal funding for it because it is substandard. The state pays for the rebuilding that is done. If there is an interest in conserving dollars they cannot keep resurfacing the road. The heavy trucks need to be moved to the federally funded west shore. The state cannot afford to pay for two parallel routes. In the statutes, it states that if a person knows of a hazard which could cause personal injury or death and nothing is done to improve it, those persons having that knowledge and failing to repair it, are civilly and criminally liable. The people on the west shore don't want the traffic. The Highway Department established the west shore as the best side of the lake to improve. Trucks do have to stop for one light in Polson. There would be a stop light in Bigfork, but the Highway Department is against this because it would set a bad precedent. She disagreed.

Opponents' Testimony:

REP. DOWELL, House District 5, Kalispell, said he opposes this reluctantly. He is sensitive to the bus situation. He said if they look at the map that was distributed, the trucks would have to go through Polson. Last summer, a hearing was held in Kalispell about the possibility of a truck by-pass. There are many toxic fuels coming through Kalispell. The federal government has allocated \$750,000 for a study to find a way around Kalispell. He said the study might take two years.

Ben Havdahl, Montana Motor Carrier's Association, presented written testimony. **EXHIBIT 13** He said they strongly oppose HB 680. If the bill is allowed to pass, it would set a very dangerous precedent. Highway 35 was constructed by state monies. The trucking industry accounts for about 40% of the highway user taxes paid in Montana. The Montana Motor Carriers continues to promote safety on all highways in Montana. He said the residents are seeking one answer to the problem and that is banning trucks on the highway.

Morris Campbell, Truck Driver, said he drives one of the super trains that has been discussed here. He said they have a good safety program within their company. If it were safer to drive on Highway 93, they would be there. Very few of their drivers receive tickets on Highway 35. They have radios and the school buses let them know where they are and they do the same. There are no passing lanes on the hill out of Somers which has a curve at the bottom. He said the problem is impatient drivers.

Jim Jensen, Co-owner of school bus and retired Highway Patrol, said they contract to the Bigfork School District. He thinks the one incident was blown-out of proportion. The busses have gone to CB radios. He said Highway 35 did have a FAP (Federally Approved Project) number. Highway 35 is a better route.

Larry Sturm, School Bus Driver, Bigfork, said at the present time, he has accumulated over 1,100,000 accident-free commercial miles. Safety of the children is extremely important. He said while driving the bus, he has been tailgated, passed on double lines and violated by passenger cars. He sends his schedule, times and dates to the major trucking companies, so they are aware of his route. He said not one of the proponents called him to ask what was going on between the school bus drivers and the truckers.

Dave Galt, Administrator, Gross Vehicle Weight (GVW), said they have several concerns if the bill would pass. They are concerned about increased traffic through both Kalispell and Polson. They are concerned about starting a truck-ban in other areas in the state. This ban could cause economic hardship to the trucking and timber industry. The accident record for Highway 35 does not warrant such drastic actions.

Richard Turner, Supertrain Driver, Missoula, said there hadn't been any mention of their concern and their equipment. He said the Missoula Cartage Company usually takes the state safety award for 5 million miles or more accident-free miles. He said they do need more sand on the highways when there is ice.

Marilyn Solberg, Solberg Trucking, Kalispell, said she is opposed to HB 680, and presented written testimony. **EXHIBIT 14**

Don Allen, Executive Vice President, Montana Wood Products Association, said they support the comments made by Mr. Havdahl regarding safety and information.

Bud Clinch, Montana Logging Association (MLA), said he opposes HB 680. The MLA is an association of 600 family owned businesses with over 200 truck-owned firms. They are also concerned about safety as is evidenced by their unrelenting effort to combat safety problems and workers' compensation. Success is evidenced by the past three successive reduction in rates for log truckers.

Grant Buswell, self, said he lives on the East Shore of the Flathead Lake. His front door knob is exactly 95 feet from the Highway. He talks with the truck drivers on the CB. He is more concerned about his fellow senior citizens, some of whom should not be driving cars. He said the classification of 26,000 pounds is discriminatory, which amounts to a U-Haul or beer truck. In twenty years, he has never known of one school bus accident.

Bob Zachariasen, Safety Director, Missoula Cartage Company, said they have been in business for 32 years. They haul wood chips from Kalispell and Columbia Falls to Missoula, and travel over 5.5 million miles a year. They have one of the best safety records in the state.

Shirley Prayor, Truck Driver, Bigfork, said the trucks are evenly divided. Highway 93 also has school buses. They have not addressed the fact that most of the building of homes along Highway 35 came after the highway was built. It is important to remember that the whole area is dependant on trucks.

REP. LEE read a statement by **SEN. ETHEL HARDING, Senate District 35.** She strongly supports the safety issues addressed in the bill. She wants the bill passed in a manner that provides increased signing immediately by the Highway Department. She advises the committee to work with the Highway Department regarding signing, speed limits, school bus stops, etc.

Questions from the Committee:

REP. LARSON asked what the posted speed limit is in that area. **Hank Butslof, safety director, Department of Highways,** said it is 50 mph. **REP. LARSON** asked if additional enforcement was employed during the school year or the summer months. **Mr. Butslof** didn't think they did. **REP. LARSON** asked if there was any highway

construction projects planned for Highway 35 to improve that road. Mr. Butslof said he didn't know. REP. LARSON asked if anyone in the audience could answer that. REP. LEE said Highway 35 is not wide enough to be funded by any federal funds. As a consequence, the only work that will be done is to overlay the existing roadway. There is some brush clearing to clear the right-of-way. There are no shoulders on this highway, because there is no room.

CHAIRMAN STANG asked if it would be possible for the Highway Department to get together with the Wood Products and the Montana Motor Carriers Association to develop a sign to be funded through highway money or private donations to post both ends of the route and some of the blind bus stops. Dave Galt said the Highway Department would be willing to work with both the Motor Carrier's Association and the Wood Product's Association. He could not commit on what the cost of the signs would be. Mr. Havdahl said they had offered a plan and would be happy to participate. They would sponsor a sign program if needed. There are objections to billboards in the area. Mr. Allen said they would be willing to cooperate. Mr. Sturm answered the question. He has been working with Mr. Herzog in Kalispell. They were able to get 15 school bus stop signs posted along Highway 35 between Yellow Bay and Bigfork. That portion of the road does have school bus stop signs.

REP. DEBRUYCKER asked how the accident happened. Ms. Schweison said the truck following the school bus was unable to stop. The truck had been following the school bus for two miles. She said the 15 signs were not just between Yellow Bay and Bigfork, they go all the way down Highway 35 to Echo Lake. She said her community would be happy to see more signage on the road.

REP. FOSTER asked how often does the highway patrol, patrol that area. REP. LEE said enforcement is a difficult problem on the east shore.

Closing by the Sponsor:

REP. LEE said he would be willing to carry the opponents' legislation, as he has carried this one. The question of the bill forcing everything into downtown Kalispell is not the reality it might appear. As far as FAP, only one very small project was done. REP. BROOKE said several people in her district have summer homes on Flathead Lake and have strong support for this bill. SEN. HARDING does not want this bill killed. She would like it to address in some form the safety issues that have been raised. He did sit down with the commercial carriers and they tried to work out the financial questions about driving the west shore. The truckers were not willing to do that.

HEARING ON HB 705

REP. PAT GALVIN, House District 40, Great Falls, said HB 705 has been amended. It addresses the problem of train collisions with vehicles, and the effect it has on the insurance of the train engineer, which raises the rates on his automobile insurance.

EXHIBIT 15

Proponents' Testimony:

Dave Ditzel, Brothers of Locomotive Engineers, said his members are concerned that when the engineers have been involved in a collision at a railroad crossing, their auto insurance went up.

Pat Keim, Director of Government Affairs, Burlington Northern, said he has seen these situations and it is not right. There is no relationship between a driver's license and the ability to run a locomotive.

Francis Marceau, United Transportation Union, said the 1200 members he represents, urge support of the bill.

Richard Van Aken, Transportation Communications Lodge 528, said they support HB 705. This bill will resolve a problem with current law that penalizes train crew members for railroad crossing accidents over which they have no control and for being in charge of a non-vehicle in a non-vehicle accident.

Matt Pepas, Brothers Maintenance and Weight, said he is in favor of the HB 705.

Opponent's Testimony: None

Informational Testimony:

Duane Tooley, Chief of Driver's Services' Bureau, said with the amendments they do not have a problem with the bill. The amendments could have led to a decertification of the commercial driver program, if the wording would have been left in. This bill is non-effect on the bureau.

Questions from the Committee:

REP. LARSON asked if the train engineers have a train driver's license. Mr. Ditzel said they do. It is a rule card that everyone is required to have in their possession.

Closing by Sponsor:

REP. GALVIN thanked the committee for a good hearing and urged their support.

EXECUTIVE ACTION ON HB 705

Motion: REP. STEPPLER MOVED HB 705 DO PASS.

Motion/Vote: REP. STEPPLER moved to adopt the amendments. Question was called. Voice vote was taken. Motion CARRIED unanimously. EXHIBIT 15

Motion/Vote: REP. STEPPLER MADE A SUBSTITUTE MOTION THAT HB 705 DO PASS AS AMENDED. Question was called. Voice vote was taken.

Vote: HB 705 DO PASS AS AMENDED. Motion CARRIED unanimously.

EXECUTIVE ACTION ON HB 733 and HB 723

Discussion:

Ms. Lane said she compared the two bills. There are three places where they have different language. One is for Veterans, and the other one for Purple Heart. HB 723 would remain as it is with the addition of the Purple Heart language added into it. On page 1, line 15, "was awarded the Purple Heart medal" is different language. On HB 733, page 2, lines 22 through 25, "A symbol..." is different provision and on page 3, line 7, "Purple Heart license fee of \$10" and on page 2, line 8 and 9, "Purple Heart license plates" are the differences between the two bills. It will be easy to take HB 723 and put in the language from HB 733. HB 723 would contain the language from both of the bills.

MOTION: REP. LARSON MOVED HB 723 DO PASS.

Motion/Vote: REP. LARSON moved to adopt the amendments. Question was called. Voice vote was taken. Motion CARRIED unanimously.

Motion/Vote: REP. NELSON MADE A SUBSTITUTE MOTION THAT HB 723 DO PASS AS AMENDED. Question was called. Voice vote was taken.

Vote: HB 723 DO PASS AS AMENDED. Motion CARRIED unanimously.

EXECUTIVE ACTION ON HB 711

MOTION: REP. TUNBY MOVED HB 711 DO PASS.

Motion/Vote: REP. GALVIN moved to adopt the amendments. EXHIBIT 11

Discussion:

REP. LARSON said he wasn't sure what the amendments did and why they were entered. Mr. Nachtsheim said the original bill had some administrative difficulties. It creates a pool of \$.25 per license which equals \$210,000. The Justice Department transfers it to the Highway Patrol in a fund that will be kept separate.

It is allocated through the eligibility requirements that are on the fund. Each eligible patrolman would get an \$1100 payment. The amount would be based on years of service. The people who have the most service will get the most credit. There was an equalizer in there that said the people who are receiving a disability either as a retired patrol officer or as a beneficiary of a retired patrol officer or the spouse of a patrol officer who was killed in duty would be given credit for twenty years of service, because their service was interrupted by the disability or death. The people who have just retired and received more than the minimum benefit structure that is in that system would have their service reduced by 25% for the purpose of the calculation. REP. LARSON asked if this was a one-time supplement or annual. Mr. Nachtsheim said it annual.

REP. ELLIS asked how long ago would a person have had to retire for this bill to make a difference. Mr. Nachtsheim said a person has to be retired for five years and be fifty five years of age.

REP. STEPPLER said on the second page of the amendments #4, it strikes \$4.25 and inserts \$5.25. He asked if that was consistent with page 3, line 14, which states \$5.50. He asked what was the difference. Mr. Nachtsheim said the number in section 4 was a typographical error and should have read \$5.25. The reason for the difference in the body of the bill and the coordination instruction in section 4, is the law currently says \$5.25. SB 192 would take the \$5.25 that is currently in law and make it \$5.00. This bill would not use anymore money than what is currently there now. It will stay at \$5.25. REP. STEPPLER asked if it had to be raised \$.25 to fight \$.50. He asked what would happen if SB 192 didn't pass. Mr. Nachtsheim said then they would be at \$5.50.

CHAIRMAN STANG said that is correct. If SB 192 does not pass, current law is \$5.25, The problem arises if the other bill does pass which reduces existing law by \$.25 or down to \$5.00. The final result should be \$5.25.

Motion/Vote: REP. LARSON called the question to adopt amendment. Voice vote was taken. Motion CARRIED unanimously.

Motion/Vote: REP. NELSON MADE A SUBSTITUTE MOTION THAT HB 711 DO PASS AS AMENDED.

Discussion:

REP. LARSON said the committee passed a bill for retirement incomes that increased to the Highway Patrol on their insurance policies. He thinks it is unfair to other public employees to give the highway patrol a \$1,000 annual supplement.

REP. TUNBY said when this was discussed previously it didn't sound like there would be that much. He wanted someone to address the amount of money a little better. Mr. Nachtseim said

there are currently 182 retired patrolmen. The bill would eliminate 34 of those people, because they are working in another public capacity. The amendments were finished two days ago, so they have not been able to see how the age would affect it. REP. TUNBY said he thought it was to help out people who were receiving the smaller amounts. Mr. Nachtsheim said there are two mechanisms to do that. The average benefit for survivors over 80 years of age is \$517 per month. There are 10 disabled members who receive \$739. Most of the people who are in these categories have less than twenty years of service.

REP. TUNBY asked if they should coordinate this bill with other state pensioners. CHAIRMAN STANG said if this bill passes, the Appropriation's Committee will coordinate it.

REP. DEBRUYCKER asked where the bill is that addresses the retirement officers. CHAIRMAN STANG said it is currently in the Taxation Subcommittee.

REP. GERVAIS said \$700 per month is cheap. They couldn't live on it.

REP. LARSON asked about the benefits for a retiree with more than twenty years of service. Mr. Nachtsheim said there are 154 retired men with an average benefit of \$844. There are 3 categories for benefit: service retirement; disability; and survivorship. It varies from \$1947 per month to \$150 per month for some people who have completed a full twenty years.

REP. MADISON said the highway patrolmen were originally not eligible to participate in Social Security. As the law changed and they were eligible to participate, it was too costly to them. They were caught in the middle. The current system forces them to retire when they have twenty years. That kicks in extra cost for the state to retrain highway patrolmen for other jobs.

REP. FOSTER asked about the \$400,000 to be used to support this. REP. DEBRUYCKER said the \$400,000 is going back into the general fund.

CHAIRMAN STANG said the \$400,000 that no one qualifies for will go into the general fund. Mr. Nachtsheim said the tax generates \$210,000 per year.

REP. TUNBY asked if the first payment will be made in September, 1992, so the other \$400,000 didn't enter in at all. Mr. Nachtsheim said that was correct.

REP. ELLIS said the Senate Bill does away with the \$.25, and dumps the part that is in the fund now and puts it in the general fund.

REP. LARSON said the Highway Patrol should get a fair shake. The fund could grow substantially. He wondered if the highway patrol

is getting a greater share than the other public employees.

REP. ELLIS asked how the retirement funds for the patrolmen ten years ago are compared to the people retiring now. Mr. Nachtsheim said they administer eight retirement systems. They have varying degrees of benefits, some have social security, some don't. The Highway Patrol retirement is based on the current salary at the time of retirement. In 1981, there were 121 retired patrolmen. In 1990 there were 182. The number of retirees will continue to increase. The best retirement system they administer is the Judge's. They receive 3 and 1/3% for each year of service, which is 1/2 salary in fifteen years and they receive Social Security. The next best systems are the Firemen and Policemen. They receive 2 1/2% per year of service, but do not have Social Security coverage. They get 1/2 pay after 20 years of service. There are three law enforcement systems that are on a 2% system. It means they work 25 years to receive 1/2 pay, they are: the sheriff's; the game wardens; and the highway patrol. The game wardens was created as a spin-off in 1963 from the PERS. Because it was a spin-off, they did have Social Security coverage.

CHAIRMAN STANG asked if the committee places this increase in the bill, will the highway patrolmen be actuarially sound, or will they be back to ask for an increase. Mr. Nachtsheim said this is a distribution, not really an annuity. They will spend what is there. This benefit will be totally funded. He thinks SB 192 will pass.

REP. NELSON called the question to adopt the amendment. Voice vote was taken. Motion CARRIED unanimously.

Motion/Vote: REP. GERVAIS MADE A SUBSTITUTE MOTION THE HB 711 DO PASS AS AMENDED. Roll call vote was taken. EXHIBIT 16

Vote: HB 711 DO PASS AS AMENDED. Motion CARRIED 15 TO 2.

EXECUTIVE ACTION ON HB 720

Motion: REP. ELLIS MOVED HB 720 DO PASS.

Discussion: REP. ELLIS moved to adopt amendment #1. The title and on line 14 should be "and" instead of "or".

Discussion:

REP. TUNBY asked if they should cross out the part about color of the bus. REP. ELLIS said just change the word "or" to "and".

REP. TUNBY said that REP. FORRESTER was only concerned about the word "school". CHAIRMAN STANG said that REP. FORRESTER agreed with the amendment.

Motion/Vote: Question was called to adopt amendment #1. Voice vote was taken. Motion **CARRIED** unanimously.

Motion/Vote: REP. TUNBY moved to adopt amendment #2 to eliminate the section on "color". Question was called. Voice vote was taken. Motion **CARRIED** unanimously.

Discussion:

REP. LARSON said he agreed with REP. TUNBY'S amendment. He asked who had the responsibility for altering the buses upon sale from the public carrier to a private party, is it the responsibility of the seller to have the bus painted or the buyer. CHAIRMAN STANG said that should be included in the terms of the sale.

REP. FOSTER asked if this would do everything they wanted it to do. Since the bus is still the same color. It is difficult to differentiate between an active and an inactive bus, unless it is a different color. CHAIRMAN STANG said that all he cared about was having the letters "school bus" taken off. The original intention was to change the color, but it is too expensive to paint a bus.

REP. NELSON asked how many places do the school buses have "school" on them. She asked if it was on the back and the front. CHAIRMAN STANG said yes.

REP. FOSTER asked about churches who use buses. There are still children, but it is not a school function. He wondered if the bill accomplished anything. REP. GERVAIS said if they had the flashing lights which the bill does not take off, the drivers would still have to stop.

REP. GALVIN said in Kalispell nearly all churches have school buses and they are labeled with a specific name.

REP. FOSTER said for the churches who don't have their own buses, there wouldn't be any designation of children on the bus. He said he was leaning away from voting for the bill. He is concerned that this could cut out some safety factors for children.

REP. TUNBY said the reason for this bill was because people are ignoring the passing rules.

REP. LARSON said there isn't a grandfather clause in the bill that should make the people clean up old buses with "school bus" written on them. CHAIRMAN STANG said every old bus out there will have to comply with the law or receive a fine.

Motion/Vote: REP. GERVAIS MADE A SUBSTITUTE MOTION THAT HB 720 DO PASS AS AMENDED.

HOUSE HIGHWAYS & TRANSPORTATION COMMITTEE

February 16, 1991

Page 22 of 22

Vote: HB 720 DO PASS AS AMENDED. Motion CARRIED 13 to 4 with REP. FOSTER, REP. BERGSAGEL, REP. CLARK and REP. STEPPLER voting no.

EXECUTIVE ACTION ON HB 751

Motion: REP. LARSON MOVED HB 751 DO PASS.

Discussion:

REP. LARSON moved to adopt amendment #1. Mr. Stallcup explained the amendment. He talked to the Highway Department who suggested changing the title of the bill. In 61-5-302, and insert "or I.D. card" after every mention of the word "license". He had talked to REP. BROWN to see if he would oppose the bill if it included the age of 18 through 21 years old. REP. BROWN said he might not vote for it but he wouldn't speak against it.

Motion/Vote: REP. LARSON moved to adopt the amendments as proposed in concept. Question was called. Voice vote was taken. Motion CARRIED unanimously.

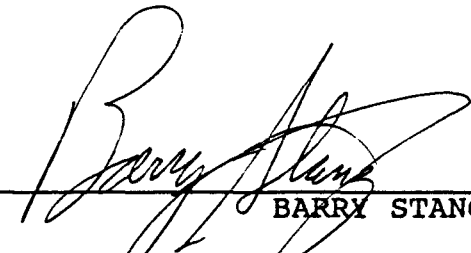
Motion/Vote: CHAIRMAN STANG moved to adopt amendment #2. To strike 21 years of age and make it 18 years of age. REP. FELAND called the question. Voice vote was taken of who wasn't in favor. Motion CARRIED 4 to 13.

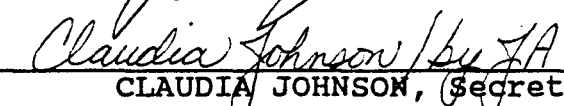
Motion/Vote: REP. LARSON MADE A SUBSTITUTE MOTION THAT HB 751 DO PASS AS AMENDED. REP. FELAND called the question. Voice vote was taken.

Vote: HB 751 DO PASS AS AMENDED. Motion CARRIED 15 to 2 with REP. NELSON and REP. STEPPLER voting no.

ADJOURNMENT

Adjournment: 5:30 p.m.


BARRY STANG, Chair


CLAUDIA JOHNSON, Secretary

BS/cj

HOUSE OF REPRESENTATIVES

HIGHWAYS AND TRANSPORTATION COMMITTEE

ROLL CALL

DATE 2-16-91

NAME	PRESENT	ABSENT	EXCUSED
REP. FLOYD "BOB" GERVAIS, V.-CHAIR	✓		
REP. ERNEST BERGSAGEL	✓		
REP. ROBERT CLARK	✓		
REP. JANE DEBRUYCKER	✓		
REP. ALVIN ELLIS, JR.	✓		
REP. GARY FELAND	✓		
REP. MIKE FOSTER	✓		
REP. PATRICK GALVIN	✓		
REP. DICK KNOX			✓
REP. DON LARSON	✓		
REP. SCOTT MCCULLOCH	✓		
REP. JIM MADISON	✓		
REP. LINDA NELSON			✓
REP. DON STEPPLER	✓		
REP. HOWARD TOOLE			✓
REP. ROLPH TUNBY	✓		
REP. BARRY "SPOOK" STANG, CHAIRMAN	✓		

HOUSE STANDING COMMITTEE REPORT

February 16, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Highways and Transportation report that House Bill 309 (first reading copy -- white) do pass as amended .

Signed: _____
Barry Stang, Chairman

And, that such amendments read:

1. Page 2, line 4.

Strike: "1/2"

Insert: "1/8"

2. Page 4, line 6.

Following: "cost"

Insert: ", to repair areas developed by this program that are damaged by off-highway vehicles,"

3. Page 4, line 9.

Following: ". "

Insert: "Up to 10% of the money deposited in the off-highway vehicle account may be used to repair areas developed by this program that are damaged by off-highway vehicles."

4. Page 4, line 12.

Strike: "1/2"

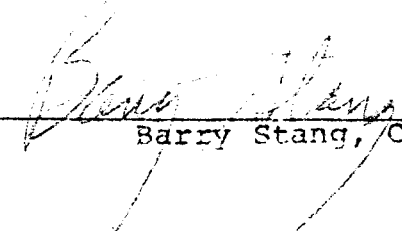
Insert: "1/8"

HOUSE STANDING COMMITTEE REPORT

February 16, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Highways and Transportation
report that House Bill 192 (first reading copy -- white) do
PASS.

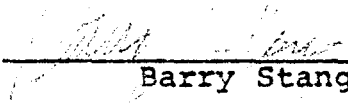
Signed: 
Barry Stang, Chairman

HOUSE STANDING COMMITTEE REPORT

February 18, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Highways and Transportation report that House Bill 705 (first reading copy -- white) do pass as amended .

Signed: 
Barry Stang, Chairman

And, that such amendments read:

1. Page 2, line 10.

Following: "(e)"

Strike: "(i)"

Following: "is"

Strike: ":"

2. Page 2, line 11.

Strike: "(A)"

3. Page 2, line 15.

Following: "highway"

Strike: "; or"

Insert: "."

4. Page 2, lines 16 through 20.

Strike: subsection (B) in its entirety

5. Page 2, line 21.

Strike: "(ii)"

Following: "in"

Insert: "this"

6. Page 2, line 22.

Strike: "(1) (e) (1) (A) or (1) (e) (1) (B)"

HOUSE STANDING COMMITTEE REPORT

February 18, 1991

Page 1 of 2

Mr. Speaker: We, the committee on Highways and Transportation report that House Bill 723 (first reading copy -- white) do pass as amended .

Signed: [Signature]
Barry Stang, Chairman

And, that such amendments read:

1. Title, line 5.

Following: "SERVICE"

Insert: "AND FOR HOLDERS OF THE PURPLE HEART MEDAL"

2. Page 1, line 14.

Following: "States"

Strike: "and who"

Insert: "may be issued license plates inscribed as provided in subsection (2) if he:
(a)"

3. Page 1, lines 15 and 16.

Following: "circumstances" on line 15

Strike: remainder of line 15 through "subsection (2)" on line 16

Insert: "; or

(b) was awarded the purple heart medal"

4. Page 1, line 17.

Following: "(2)"

Insert: "(a)"

Following: "of"

Strike: "a written application and"

5. Page 1, line 22.

Following: "set"

Strike: "following"

Insert: ". The plates must display:
(i)"

6. Page 2, line 1.

Following: "application"

Strike: "."

Insert: "; or

(ii, a symbol representing the purple heart medal.

(b) "

7. Page 2, line 3.

Following: "to"

Insert: "qualified"

8. Page 2, line 10.

Following: "veterans'"

Insert: "or purple heart medal"

Following: "fee"

Strike: ", which may not exceed"

Insert: "of"

9. Page 2, line 13.

Strike: "motor vehicle account in the state special revenue"

Insert: "state general"

HOUSE STANDING COMMITTEE REPORT

February 18, 1991

Page 1 of 3

Mr. Speaker: We, the committee on Highways and Transportation report that House Bill 711 (first reading copy -- white) do pass as amended.

Signed: _____
Barry Stang, Chairman

And, that such amendments read:

1. Title, line 6.

Following: "FEES;"

Insert: "PROVIDING A STATUTORY APPROPRIATION;"

2. Title, line 7.

Strike: "SECTION"

Insert: "SECTIONS 17-7-502 AND"

3. Page 1, lines 12 through 24.

Following: "retirees."

Strike: remainder of line 12 through "benefit." on line 24

Insert: "(1) In addition to any retirement allowance payable under this chapter, a retired patrol officer or a beneficiary determined by the board to be eligible under subsection (2) shall receive an annual lump-sum payment beginning in September 1992 and each succeeding year as long as he remains eligible.

(2) To be eligible for the benefits under this section, a person must be:

(a) a retired patrol officer who is 55 years of age or older and who has been receiving a service allowance for at least 5 years prior to the date of distribution;

(b) a beneficiary of a patrol officer who would have been eligible under subsection (2) (a); or

(c) a recipient of a disability or survivorship allowance under 19-6-601 or 19-6-603.

(3) A retired patrol officer otherwise qualified under this section who is employed in a position covered by a retirement system under Title 19, chapters 3 through 13, is ineligible to receive any lump-sum payments provided for in this section until his employment in the covered position is terminated. Upon termination of his covered employment, the officer becomes eligible in the next fiscal year succeeding his termination.

(4) (a) Twenty-five cents of each motor vehicle registration fee provided for in 61-3-321 must be deposited in the highway patrol fund at the end of each fiscal year. The fee is statutorily appropriated, as provided in 17-7-502, for payment of benefits to eligible recipients. The total funds must be distributed by the department in lump-sum payments to eligible recipients along with their normal retirement allowance payment.

(b) The lump-sum payment must be distributed proportionally to all eligible recipients based on years of service at the time of retirement, subject to the following:

(i) a recipient under subsection (2) (c) is considered to have 20 years of service for the purposes of the distributions.

(ii) any recipient of a service retirement allowance exceeding the maximum monthly allowance under 19-6-707(2) (a) must have his years of service reduced 25% for the purposes of the distributions.

NEW SECTION. Section 2. Section 17-7-502, MCA, is amended to read:

"17-7-502. Statutory appropriations -- definition -- requisites for validity. (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-9-202; 2-17-105; 2-18-812; 10-3-203; 10-3-312; 10-3-314; 10-4-301; 13-37-304; 15-1-111; 15-25-123; 15-31-702; 15-36-112; 15-37-117; 15-65-121; 15-70-101; 16-1-404; 16-1-410; 16-1-411; 17-3-212; 17-5-404; 17-5-424; 17-5-804; section 11; 19-8-504; 19-9-702; 19-9-1007; 19-10-205; 19-10-305; 19-10-506; 19-11-512; 19-11-513; 19-11-606; 19-12-301; 19-13-604; 20-6-406; 20-8-111; 20-9-361; 23-5-306; 23-5-409; 23-5-610; 23-5-612; 23-5-1016; 23-5-1027; 27-12-206; 37-51-501; 39-71-2504; 53-6-150; 53-24-206; 61-2-406; 61-5-121; 67-3-205; 75-1-1101; 75-5-1108; 75-11-313; 76-12-123; 80-2-103; 82-11-136; 82-11-161; 90-3-301; 90-4-215; 90-4-613; 90-6-331; 90-9-306; and section 13, House Bill No. 861, Laws of 1985.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana.

Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for such payments. (In subsection (3), pursuant to sec. 10, Ch. 664, L. 1987, the inclusion of 39-71-2504 terminates June 30, 1991.)"

Renumber: subsequent sections

4. Page 4, line 10.

Following: "is"

Strike: "\$4.25"

Insert: "\$5.25"

HOUSE STANDING COMMITTEE REPORT

February 18, 1991

Page 1 of 1

Mr. Speaker. We, the committee on Highways and Transportation report that House Bill 720 (first reading copy -- white) do pass as amended .

Signed: _____

Barry Stang, Chairman

And, that such amendments read:

1. Title, line 6.

Following: first "BUS"

Strike: "IS THE COLOR OF A SCHOOL BUS OR"

2. Page 1, line 11.

Strike: "Color of and markings"

Insert: "Markings"

3. Page 1, lines 13 and 14.

Following: "it" on line 13

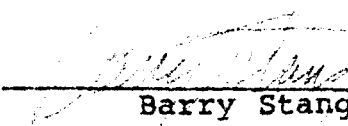
Strike: remainder of line 13 through "or"

HOUSE STANDING COMMITTEE REPORT

February 18, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Highways and Transportation report that House Bill 751 (first reading copy -- white) do pass as amended .

Signed: 

Barry Stang, Chairman

And, that such amendments read:

1. Title, line 10.

Strike: "SECTION"

Insert: "SECTIONS"

Following: "61-5-206"

Insert: "AND 61-5-302"

2. Page 4, line 2.

Following: line 1

Insert: "Section 2. Section 61-5-302, MCA, is amended to read:

"61-5-302. Unlawful use of license or identification card. It is a misdemeanor for any person to:

(1) display or cause or permit to be displayed or have in his possession any canceled, revoked, suspended, fictitious, or altered driver's license or identification card;

(2) lend his driver's license or identification card to any other person or knowingly permit its use by another;

(3) display or represent as one's own any driver's license or identification card not issued to him;

(4) fail or refuse to surrender to the department upon its lawful demand any driver's license or identification card which has been suspended, revoked, or canceled;

(5) use a false or fictitious name in any application for a driver's license, or commercial vehicle operator's endorsement, or identification card or knowingly make a false statement or knowingly conceal a material fact or otherwise commit a fraud in any such application; or

(6) permit any unlawful use of a driver's license or identification card issued to him."

Proposed Amendments to HB 309
Montana Audubon Legislative Fund
House Highways & Transportation
January 12, 1991

EXHIBIT 1
DATE 2-16-91
HB 309

1. Page 4, Line 4
Strike "only to"
Insert "for the following purposes: (i) to"
 2. Page 4, Line 6
Following "cost"
Insert ";
 3. Page 4, Line 6
Following "and"
Insert "(ii) to address environmental consequences of facilities through planning, mitigation, and monitoring.
(b)"
 4. Page 4, Line 8
Strike "and to promote off-highway vehicle safety."
 5. Page 4, Line 10
Strike "(b)"
Insert "(c)"
-
6. Page 4, Line 5
Following "public"
Insert "and to repair areas damaged by off-highway vehicles"
*developed by this project donate
up to 10%*

EXHIBIT 2
DATE 2-16-91
HB 309

HOUSE OF REPRESENTATIVES

HIGHWAYS AND TRANSPORTATION COMMITTEE

ROLL CALL VOTE

DATE 2-16-91 BILL NO. 309 NUMBER _____

MOTION: Rep Stepler Made substitute
Motion that HB 309 Do Pass As Amended
Motion Carried 9-6

NAME	AYE	NO
REP. FLOYD "BOB" GERVAIS, VICE-CHAIRMAN		✓
REP. ERNEST BERGSAGEL		✓
REP. ROBERT CLARK		✓
REP. JANE DEBRUYCKER	✓	
REP. ALVIN ELLIS, JR.	✓	
REP. GARY FELAND	✓	
REP. MIKE FOSTER	✓	
REP. PATRICK GALVIN	✓	
REP. DICK KNOX		
REP. DON LARSON	✓	
REP. SCOTT MCCULLOCH	✓	
REP. JIM MADISON	✓	
REP. LINDA NELSON		✓
REP. DON STEPPLER		✓
REP. HOWARD TOOLE		
REP. ROLPH TUNBY	✓	
REP. BARRY "SPOOK" STANG, CHAIRMAN		✓
TOTAL	9	6

EXHIBIT 3
DATE 2-16-91
HB 192

HOUSE OF REPRESENTATIVES

HIGHWAYS AND TRANSPORTATION COMMITTEE

ROLL CALL VOTE

DATE 2-16-91 BILL NO. HB 192 NUMBER _____

MOTION: Rep. McCulloch made Substitute
Motion that HB 192 Do PASS.
Motion Carried 10-5

NAME	AYE	NO
REP. FLOYD "BOB" GERVAIS, VICE-CHAIRMAN	✓	
REP. ERNEST BERGSAGEL	✓	
REP. ROBERT CLARK		✓
REP. JANE DEBRUYCKER	✓	
REP. ALVIN ELLIS, JR.		✓
REP. GARY FELAND		✓
REP. MIKE FOSTER		✓
REP. PATRICK GALVIN	✓	
REP. DICK KNOX		
REP. DON LARSON		✓
REP. SCOTT MCCULLOCH	✓	
REP. JIM MADISON	✓	
REP. LINDA NELSON	✓	
REP. DON STEPPLER	✓	
REP. HOWARD TOOLE		
REP. ROLPH TUNBY	✓	
REP. BARRY "SPOOK" STANG, CHAIRMAN	✓	
TOTAL	10	5

DEPARTMENT OF HIGHWAYS

EXHIBIT 4DATE 2-16-91HB 37

STAN STEPHENS, GOVERNOR

2701 PROSPECT AVE.

STATE OF MONTANA

HELENA, MONTANA 59620

April 19, 1989

Honorable Irvin Davis
Montana House of Representatives
Capitol Building
Helena, MT 59620

OVERWEIGHT POTATOE HAULING VEHICLES - POLSON/RONAN AREA

The Gross Vehicle Weight Division monitors commercial and farm vehicle operations throughout the state, with special emphasis on roads that are restricted due to climatic conditions. Each year most of the roadways in northwestern Montana are restricted for both weight and speed. Since March 6 of this year, we have had four officers monitoring all restricted roads in northwestern Montana. Our officers have weighed 63 potatoe hauling vehicles with portable scales. Four vehicles were found to be overweight and were returned to the point of loading to adjust. In each case the overweight did not exceed 3,000 pounds.

The new weigh station at Haugan processes the bulk of the potatoe hauling vehicles. To date we have had only one overweight potatoe hauling vehicle at Haugan. The unit was 2,600 pounds heavy and was adjusted at the weigh station.

~~The "potatoe haulers" appear to be in compliance with Montana weight laws.~~ We have had only five overweights from the "potatoe haulers" in the Polson-Ronan area and they were not severe. However, there have been several vehicles cited for failure to purchase trip permits.

If we can be of more assistance, please contact me at 444-6130.

A handwritten signature in cursive script, appearing to read "Jesse Munro".

JESSE MUNRO, ADMINISTRATOR
GROSS VEHICLE WEIGHT DIVISION

JM:lrk:1x

EXHIBIT 5
DATE 2-16-91
HB 37

HOUSE OF REPRESENTATIVES

HIGHWAYS AND TRANSPORTATION COMMITTEE

ROLL CALL VOTE

DATE 2-16-91 BILL NO. HB 37 NUMBER _____

MOTION: Rep. Gervais Made a substitute
Motion That HB 37 Do Not PASS.
Motion Carried 10-6

NAME	AYE	NO
REP. FLOYD "BOB" GERVAIS, VICE-CHAIRMAN	✓	
REP. ERNEST BERGSAGEL	✓	
REP. ROBERT CLARK	✓	
REP. JANE DEBRUYCKER	✓	
REP. ALVIN ELLIS, JR.	✓	
REP. GARY FELAND	✓	
REP. MIKE FOSTER		✓
REP. PATRICK GALVIN	✓	
REP. DICK KNOX	✓	
REP. DON LARSON		✓
REP. SCOTT MCCULLOCH	✓	
REP. JIM MADISON		✓
REP. LINDA NELSON		✓
REP. DON STEPPLER		✓
REP. HOWARD TOOLE		
REP. ROLPH TUNBY		✓
REP. BARRY "SPOOK" STANG, CHAIRMAN	✓	
TOTAL	10	6

EXHIBIT 6
DATE 2-16-91
HB 37

HOUSE OF REPRESENTATIVES

HIGHWAYS AND TRANSPORTATION COMMITTEE

ROLL CALL VOTE

DATE 2-16-91 BILL NO. HB 37 NUMBER

MOTION: Rep. Clark Made a Substitute
Motion That HB 37 Be TABLED.
Motion Carried 8-7

NAME	AYE	NO
REP. FLOYD "BOB" GERVAIS, VICE-CHAIRMAN	✓	
REP. ERNEST BERGSAGEL	✓	
REP. ROBERT CLARK	✓	
REP. JANE DEBRUYCKER		✓
REP. ALVIN ELLIS, JR.	✓	
REP. GARY FELAND	✓	
REP. MIKE FOSTER		✓
REP. PATRICK GALVIN	✓	
REP. DICK KNOX		
REP. DON LARSON		✓
REP. SCOTT MCCULLOCH	✓	
REP. JIM MADISON		✓
REP. LINDA NELSON		✓
REP. DON STEPPLER		✓
REP. HOWARD TOOLE		
REP. ROLPH TUNBY		✓
REP. BARRY "SPOOK" STANG, CHAIRMAN	✓	
TOTAL	8	7

EXHIBIT 7
DATE 2-16-91
HB 733

HOUSE BILL 733

PROPOSED AMENDMENTS

AMENDMENT #1

Page 1, Section 1, Part 2, Line 17 - strike the words "a written application and" so that Line 17 reads "upon submission of proof....."

AMENDMENT #2

Page 2, Section 1, Part 3, Lines 10 and 11 - following "deposit in" remove "the Motor Vehicles Account in the State Special Revenue Fund." Insert "the State General Fund Account."

EXHIBIT 8
DATE 2-16-91
HB 723

H.B. 723

PROPOSED AMENDMENTS

AMENDMENT #1

Page 1, Section (1) Part (2) Line 17, strike "a written application". Line 17 then reads "Upon submission of proof....."

AMENDMENT #1

Page 2, Section (1) Part (3) Line 12 and 13. Should read "Remit \$1.00 for deposit in the State General Fund". Strike "Remit \$1.00 for deposit in the Motor Vehicle Account in the State special revenue fund".

Amendments to House Bill No. 723
First Reading Copy (White)

For the Committee on Highways and Transportation

Prepared by Valencia Lane
February 17, 1991

1. Title, line 5.

Following: "SERVICE"

Insert: "AND FOR HOLDERS OF THE PURPLE HEART MEDAL"

2. Page 1, line 14.

Following: "States"

Strike: "and who"

Insert: "may be issued license plates inscribed as provided in
subsection (2) if he:

(a)"

3. Page 1, lines 15 and 16.

Following: "circumstances" on line 15

Strike: remainder of line 15 through "subsection (2)" on line 16

Insert: "; or

(b) was awarded the purple heart medal"

4. Page 1, line 17.

Following: "(2)"

Insert: "(a)"

Following: "of"

Strike: "a written application and"

5. Page 1, line 22.

Following: "set"

Strike: "following"

Insert: ". The plates must display:

(i)"

6. Page 2, line 1.

Following: "application"

Strike: "."

Insert: "; or

(ii) a symbol representing the purple heart medal.

(b)"

7. Page 2, line 3.

EXHIBIT 8
DATE 2-16-91
HB 723

Following: "to"
Insert: "qualified"

8. Page 2, line 10.
Following: "veterans"
Insert: "or purple heart medal"
Following: "fee"
Strike: ", which may not exceed"
Insert: "of"

9. Page 2, line 13.
Strike: "motor vehicle account in the state special revenue"
Insert: "state general"

VETERANS AFFAIRS DIVISION EXHIBIT 9

DEPARTMENT OF MILITARY AFFAIRS

DATE 2-16-91HB 723

STAN STEPHENS, GOVERNOR

STATE OF MONTANA

TESTIMONY ON HOUSE BILL 723

SATURDAY, FEBRUARY 16, 1991

GOOD AFTERNOON.

I AM RICH BROWN, ADMINISTRATOR OF THE STATE'S VETERANS AFFAIRS DIVISION. I AM HERE TODAY TO EXPRESS SUPPORT FOR HB 723 ON BEHALF OF THE MONTANA BOARD OF VETERANS AFFAIRS AND TO GIVE YOU A SHORT REVIEW OF THE STATE VETERANS CEMETERY.

IN 1985 REPRESENTATIVE ORVAL ELLISON AND OTHERS SPONSORED HB 513 WHICH CREATED THE CEMETERY AND APPROPRIATED \$25,000.00 FOR CONSTRUCTION AT THE SITE. ALTHOUGH THE ORIGINAL REQUESTED AMOUNT OF THE BILL WAS \$250,000 AND WAS LATER REDUCED TO \$25,000, IN THE FULL HOUSE APPROPRIATIONS COMMITTEE, WE WERE ABLE TO GENERATE A TWO-FOR-ONE MATCH WITH THE FEDERAL DEPARTMENT OF VETERANS AFFAIRS AND OPEN THE FACILITY. WE HAD RECEIVED 65 ACRES OF LAND, NEAR THE FORT HARRISON D.V.A. FACILITY, FROM THE U.S. ARMY CORPS OF ENGINEERS AT NO COST TO THE STATE OF MONTANA.

DURING THE 1987 LEGISLATURE, REPRESENTATIVE BOB PAVLOVICH AND OTHERS SPONSORED A REVENUE CHECK-OFF ON THE STATE INCOME TAX FORM WHICH GENERATED JUST OVER \$7,000.00 FOR CONSTRUCTION AT THE SITE.

THE \$25,000.00 APPROPRIATED BY THE 1985 LEGISLATURE IS THE ONLY FUNDING PROVIDED BY THE STATE OF MONTANA IN THE SIX YEARS THE STATE HAS OWNED AND OPERATED THE SITE. ALL LAND, TREES, CONSTRUCTION AND OPERATIONS AT THE SITE HAVE, TO DATE, COME FROM FEDERAL OR DONATED FUNDS.

RECENTLY OUR DIVISION HAS RECEIVED NUMEROUS COMPLAINTS FROM FAMILIES OF INDIVIDUALS BURIED AT THE SITE, VETERANS AND OTHERS WHO BELIEVE IMMEDIATE RENOVATIONS AND IMPROVEMENTS MUST BE COMPLETED.

THE SALE OF SPECIAL VETERAN LICENSE PLATES WILL ALLOW THE VETERANS THE OPPORTUNITY TO BUILD AS MUCH OR AS LITTLE AS THEY DEEM NECESSARY AT THE SITE.

EXHIBIT 9
DATE 2-16-91
HB 723

THE BILL SUGGESTS ONE DOLLAR BE GIVEN TO THE STATE TO COVER COST OF PRINTING THE LICENSE PLATES, THREE DOLLARS GO TO THE COUNTY FOR COSTS ASSOCIATED WITH THE SALE AND SIX DOLLARS BE HELD FOR CONSTRUCTION AT THE SITE. THESE FIGURES ARE ESTIMATES OF COSTS AND MAY BE ALTERED IF THE COMMITTEE DEEMS THAT NECESSARY.

SEPARATED LEGISLATION WILL BE CONSIDERED DURING THIS SESSION FOR THE OPERATIONS AND MAINTENANCE OF THE CEMETERY.

AS OF FRIDAY, FEBRUARY 19, 1991 149 BURIALS HAS TAKEN PLACE AT THIS SITE.

EXHIBIT 9
DATE 2-16-91
HB 723

STATE VETERANS CEMETERY
PROPOSED PHASING OF FUNDING (IN THOUSANDS)

ITEM	PHASE ONE COST	PHASE TWO COST	PHASE THREE COST	PHASE FOUR COST
BUILDING, TOTAL	0.0	26.9	0.0	0.0
ROADS	18.9	37.8	56.7	37.8
FENCING 50%	9.6	22.4	0.0	0.0
WATER SYSTEM				
PUMP/WELL	4.4	0.0	0.0	0.0
2 IN PIPE 50%	12.8	12.8	0.0	0.0
1 1/2 IN PIPE 50%	0.0	0.0	25.4	25.4
TRENCHING	7.8	7.8	15.7	0.0
ELECTRICAL	2.9	0.0	0.0	0.0
WALKWAYS 25%	0.0	17.3	17.3	34.5
LANDSCAPING 25%	3.0	3.0	3.0	5.1
CONTINGENCY	3.0	6.4	5.9	5.1
DESIGN FEES	11.9	11.9	3.0	3.0
TOTAL	74.0	146.1	126.8	110.8

PHASE 1	74,000
PHASE 2	146,100
PHASE 3	126,800
PHASE 4	110,800
TOTAL	457,700

VETERANS CEMETARY

FINANCIAL RECAP

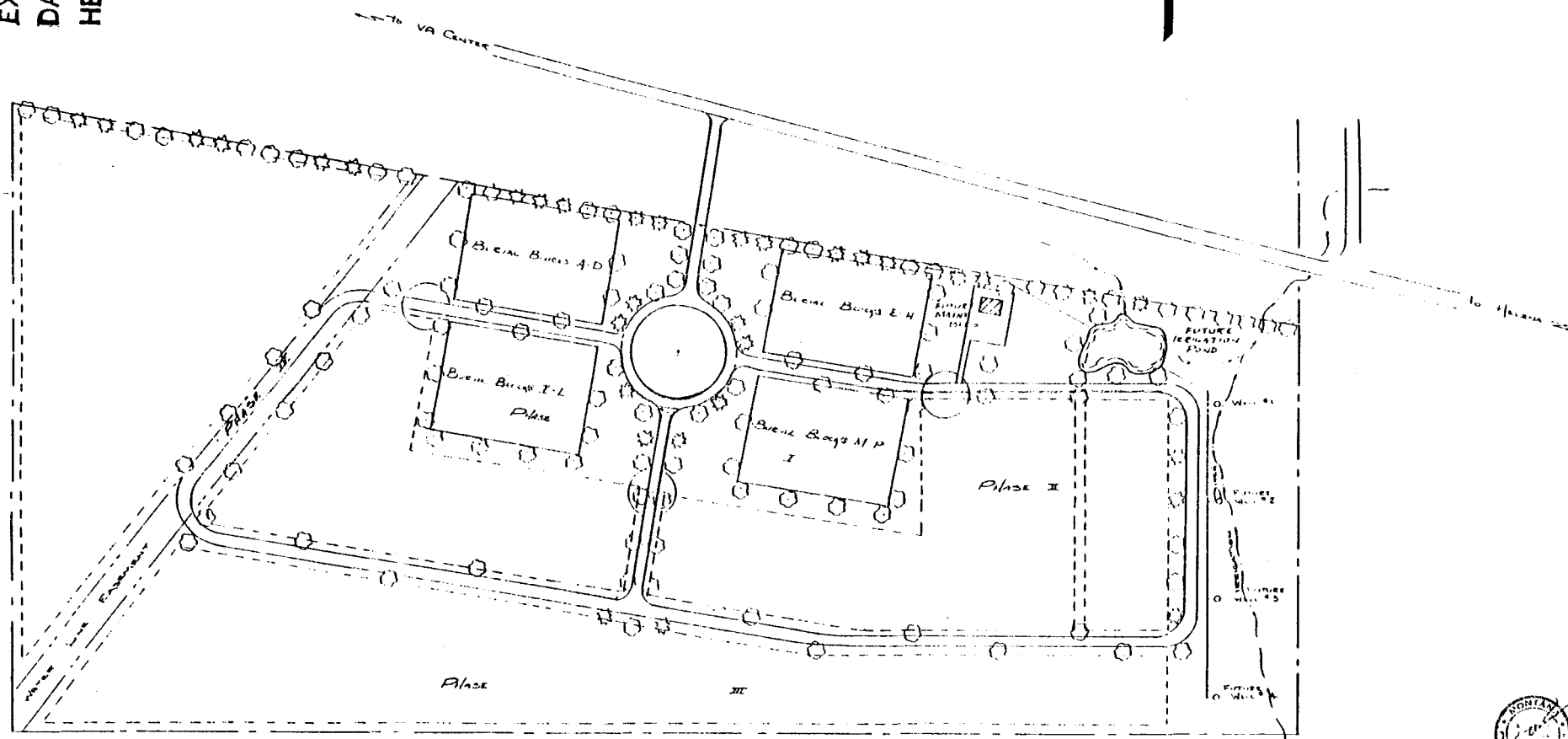
EXHIBIT 9
DATE 2-16-91
HB 723

Architect:	McKenna Associates	\$14,966.50
Contractor:	NW General Construction	\$36,424.00
	Lindsay Drilling	\$11,680.00
	Maronick Construction	\$10,888.00
Advertising:	Independent Record	\$ 84.00
Supervisory Fees:	State A & E Division	\$ 208.38
Appraisal Services:	Al J. Frezzette	\$ 300.00
Filing Fees:	Lewis & Clark County	\$ 4.00
Surveyor:	Gerald Ditto	<u>\$ 440.00</u>
		\$74,995.38

EXHIBIT

DATE _____

五



1	PEDWAY SCOPE	REDUCED	101-6
rev no	description		date
	MASTER PLAN		
	STATE VETERANS CEMETERY		
	SHOWING PHASE I DEVELOPMENT		
	FORT HARRISON MONTANA		
	MONTANA AE & 33-04		
	MCKENNA ASSOCIATES		
	ENGINEERS	HELENA, MT	
18 JUN 84	SCHE 1" = 100'	DATE 5-1-84	
	PROJ no 04-22	SHEET 2 OF 3	

EXHIBIT 10
DATE 2-16-91
HB 751

JOINT STATEMENT OF
MOTHERS AGAINST DRUNK DRIVING
AND THE
NATIONAL RESTAURANT ASSOCIATION

Society is experiencing a rapid escalation in the number of people under the legal age for purchasing alcoholic beverages who use or attempt to use false identification to make such purchases. This kind of fraudulent activity is all too common among both high school and college age students.

For this reason, Mothers Against Drunk Driving (MADD) and the National Restaurant Association have joined together to ask the individual states to take appropriate action.

1. MADD and the National Restaurant Association ask all states that have not done so to enact laws that will make it illegal for an individual under the legal purchasing age for alcoholic beverages to misrepresent his/her age by use of false identification for the purpose of purchasing alcoholic beverages. Further, we urge that penalties be established for the attempt to acquire such identification through the use of other fraudulent documents.
2. We further ask the individual states that have not already done so to legislate penalties for this crime that judges will be willing to hand down to minors and that will act as a deterrent to the crime. We recommend: suspension of the offender's license for up to one year, or until age 18,

whichever is longer or for one year past age of licensure if the offender is at that time below that age.

3. We ask the individual states to issue universal, tamperproof photographic licenses with color coding to identify persons under 21 years of age in conjunction with stamping "under 21" clearly across the license.
4. We call on licensed retailers of alcoholic beverages, who have not done so already, to train employees on the detection of fraudulent or altered identification, as well as to take necessary steps to "card" youth in an effort to detect such abuses of identification by those under 21.

Amendments to House Bill No. 711
First Reading Copy

Requested by Rep. Connelly
For the House Committee on Highways

Prepared by Eddy McClure
February 15, 1991

1. Title, line 6.

Following: "FEES;"

Insert: "PROVIDING A STATUTORY APPROPRIATION;"

2. Title, line 7.

Strike: "SECTION"

Insert: "SECTIONS 17-7-502 AND"

3. Page 1, lines 12 through 24.

Following: "retirees."

Strike: remainder of line 12 through "benefit." on line 24

Insert: "(1) In addition to any retirement allowance payable under this chapter, a retired patrol officer or a beneficiary determined by the board to be eligible under subsection (2) shall receive an annual lump-sum payment beginning in September 1992 and each succeeding year as long as he remains eligible.

(2) To be eligible for the benefits under this section, a person must be:

(a) a retired patrol officer who is 55 years of age or older and who has been receiving a service allowance for at least 5 years prior to the date of distribution;

(b) a beneficiary of a patrol officer who would have been eligible under subsection (2)(a); or

(c) a recipient of a disability or survivorship allowance under 19-6-601 or 19-6-603.

(3) A retired patrol officer otherwise qualified under this section who is employed in a position covered by a retirement system under Title 19, chapters 3 through 13, is ineligible to receive any lump-sum payments provided for in this section until his employment in the covered position is terminated. Upon termination of his covered employment, the officer becomes eligible in the next fiscal year succeeding his termination.

(4) (a) Twenty-five cents of each motor vehicle registration fee provided for in 61-3-321 must be deposited in the highway patrol fund at the end of each fiscal year. The fee is statutorily appropriated, as provided in 17-7-502, for payment of benefits to eligible recipients. The total funds must be distributed by the department in lump-sum payments to eligible recipients along with their normal retirement allowance payment.

(b) The lump-sum payment must be distributed proportionally to all eligible recipients based on years of service at the time of retirement, subject to the following:

(i) a recipient under subsection (2)(c) is considered to have 20 years of service for the purposes of the distributions.

(ii) any recipient of a service retirement allowance

exceeding the maximum monthly allowance under 19-6-707(2)(a) must have his years of service reduced 25% for the purposes of the distributions.

NEW SECTION. Section 2. Section 17-7-502, MCA, is amended to read:

"17-7-502. Statutory appropriations -- definition -- requisites for validity. (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-9-202; 2-17-105; 2-18-812; 10-3-203; 10-3-312; 10-3-314; 10-4-301; 13-37-304; 15-1-111; 15-25-123; 15-31-702; 15-36-112; 15-37-117; 15-65-121; 15-70-101; 16-1-404; 16-1-410; 16-1-411; 17-3-212; 17-5-404; 17-5-424; 17-5-804; [section 1]; 19-8-504; 19-9-702; 19-9-1007; 19-10-205; 19-10-305; 19-10-506; 19-11-512; 19-11-513; 19-11-606; 19-12-301; 19-13-604; 20-6-406; 20-8-111; 20-9-361; 23-5-306; 23-5-409; 23-5-610; 23-5-612; 23-5-1016; 23-5-1027; 27-12-206; 37-51-501; 39-71-2504; 53-6-150; 53-24-206; 61-2-406; 61-5-121; 67-3-205; 75-1-1101; 75-5-1108; 75-11-313; 76-12-123; 80-2-103; 82-11-136; 82-11-161; 90-3-301; 90-4-215; 90-4-613; 90-6-331; 90-9-306; and section 13, House Bill No. 861, Laws of 1985.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for such payments. (In subsection (3), pursuant to sec. 10, Ch. 664, L. 1987, the inclusion of 39-71-2504 terminates June 30, 1991.)""

Renumber: subsequent sections

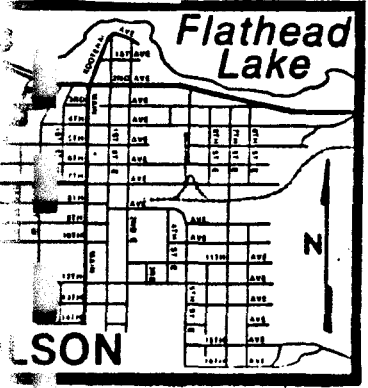
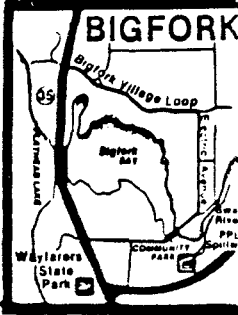
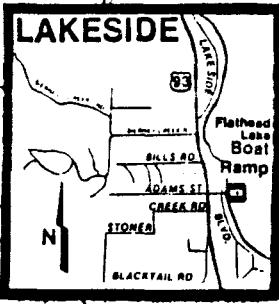
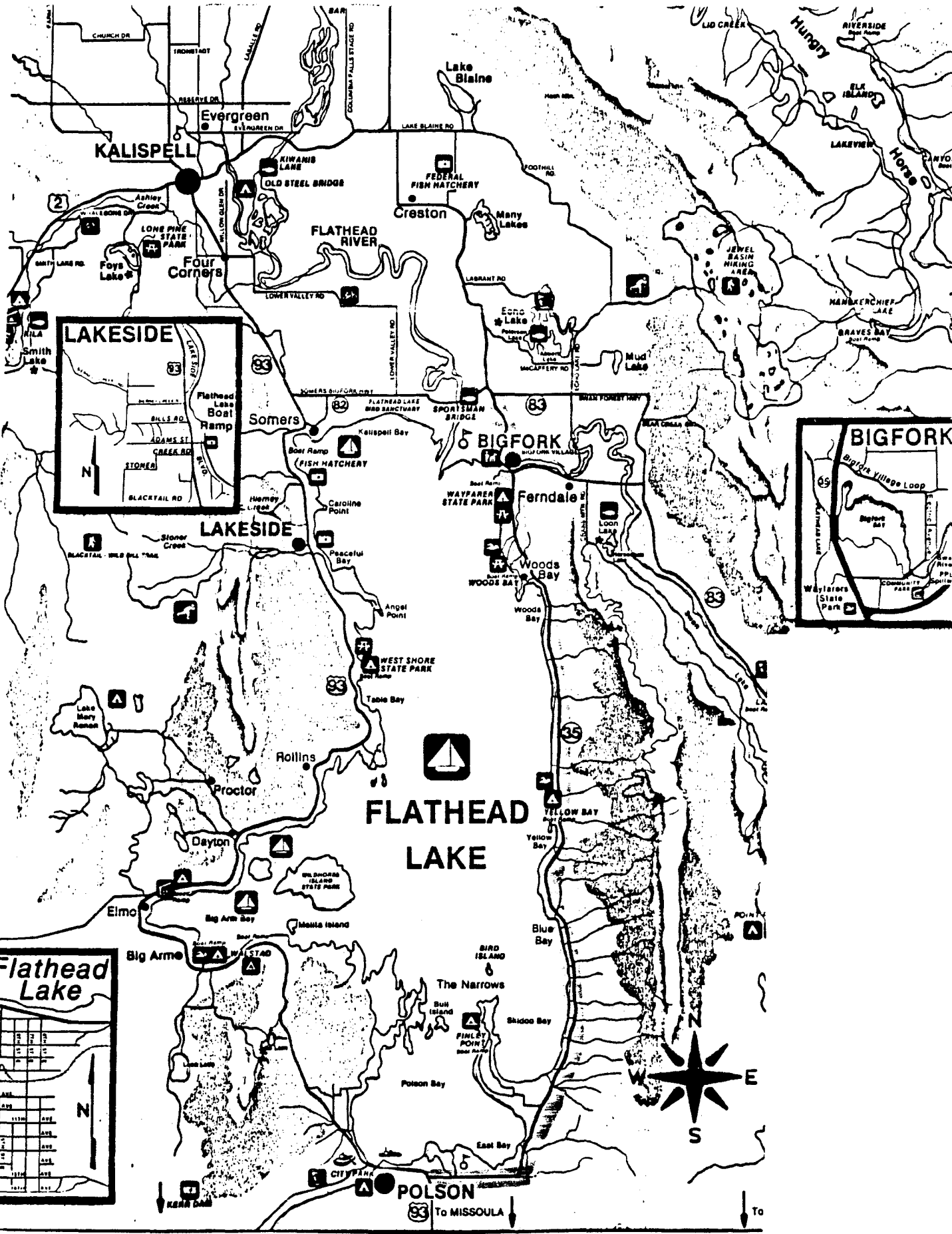
4. Page 4, line 18.

Following: "is"

Strike: "\$4.25"

Insert: "\$5.25"

DATE 2-16-91
HB 680



Schoolbus driver averts tragedy

A chip truck that skidded out of control on icy Montana 35 Wednesday afternoon missed slamming into a nearly full Bigfork school bus only because the bus driver alertly backed the bus out of harm's way.

Maurice Dale of Yellow Bay said his bus was stopped after unloading three students just north of the Beardance Clubhouse about nine miles south of Bigfork when he saw the oncoming chip truck skidding toward the bus.

"I looked up, and here comes the truck and trailer sideways down the road," Dale said.

The students — a high-school girl, an eighth-grade boy and a kindergarten girl — were not yet to the centerline of the highway when

they also saw the oncoming truck. They ran off the west side of the road over a bank and into the snow, Dale said.

He threw the bus into reverse and backed up about 75-100 feet, as did another motorist stopped immediately behind him.

The truck driver tried to swing onto a side road, but the trailer skidded across the highway and "came to rest crosswise in the road where I'd been stopped.

"It could have been really bad," Dale said.

Henry Jacobson, the investigating Montana Highway patrolman, agreed with Dale.

"Everybody did just exactly what they should have," he said.

"God was sitting on somebody's shoulder."

The skidding truck was also able to avoid a car that had stopped in the northbound lane while the three students got off the bus.

Dale said witnesses to the near-tragedy were upset with the truck driver, and some exchanged heated words with the driver.

Dale said it appeared to him that the truck was driving too fast for conditions. No citations were issued, however, Jacobson said.

Dale, a former Lake County deputy sheriff, said this is his first year driving school bus after 12 years driving a patrol car.

"I don't know why we didn't lose some kids last night," he said.

Fork Lake

12/21/89

2-16-91

Exhibit 12 also contains 8 letters supporting HB 680. The originals are stored at the Montana Historical Society, 225 North Roberts, Helena, MT 59601. (Phone 406-444-4775)

Date Submitted: 2/16/91
HB 680
Curt Laingen
Montana Motor Carriers Association

Mr. Chairman, members of the committee... for the record, my name is Curt Laingen. I am Director of Safety for the Montana Motor Carriers Association (MMCA). I am here today to speak in strong opposition to HB 680. This bill would prohibit all truck traffic on Montana Highway 35.

The impact of a restriction of traffic on a state highway would have far reaching effects. Highway 35 now carries traffic that transports commodities that are in one way or another the mainstay of Montana life and livelihood.

Highway 35 provides a route that is shorter and more direct than alternate routes and those factors directly impact the economics of the commercial motor carrier industry. Moving truck traffic to Highway 93 means more miles and longer grades as compared to Highway 35. That Equates to increased fuel costs, increased employment costs and trip times that will adversely affect a major component of an already fragile lumber industry.

Hwy 35 provides a route that has better gradability than alternate routes which means a smoother, less restricted traffic flow. This greatly enhances traffic safety because of reduced vehicular passing.

The Association is firm in its policy of promoting safety on all highways in Montana to our member carriers including Highway 35. We are concerned, however that many of the residents and some business establishments in the area of Bigfork are urging that all truck traffic be banned and diverted to Highway 93. MMCA would oppose this approach as we believe it would compound the truck traffic on Highway 93 to transfer the matter to another area rather than attempting to reach solutions to the concerns of residents and others on Highway 35. In our view both are public roadways and must remain open to all vehicle traffic.

Traffic splits between Highway 93 & Highway 35 are currently about 50-50. Shifting truck traffic to Highway 93 would mean that all truck traffic would now go directly through downtown Kalispell and

downtown Polson. The resulting traffic congestion would not only cause a very unhappy situation in those communities, but would equate to a very dangerous driving situation as well for all drivers.

The long grade at Lakeside would require trucks to chain up often in the winter months which will further congest traffic flow. Increased truck traffic at best would mean lines of traffic backed up behind trucks as they pull the grade in summer months.

Concern has been expressed by residents and groups including, the Bigfork Area Chamber of Commerce, Lake County Land Services, the Bear Dance Women's Club and others regarding the compatibility of truck operation on Highway 35 with school buses. Mention has been made of one or two incidents involving a truck and school bus.

MMCA is also concerned about this matter and we strongly support the use of the Channel 19 radio communication program recently implemented. You may be aware of the successful effort by Bigfork Public School Superintendent Jean Hagan and her school bus drivers. In the event you have not seen the letter written by Jean Hagan to the Department, she noted the following and I quote, in part, for your information:

"Bigfork Schools, along with you and the Motor Carriers, want only safe conditions for students being transported to and from school. We have appreciated the cooperation given to date by the regular carriers along Highway 35. Currently, they and the Bigfork School's bus contractor are to be using Channel 19 on their radios during school bus pick-up and drop-off times. The highway department is putting in pull-offs along Highway 35. Signs have been posted. And, Bigfork School bus drivers have received defensive driving in service."

Anything else which can be done to promote safety will, of course, be supported by the schools. We recognize that all should be able to use the road if prudence and common sense is used. Not until last year, when a potentially tragic situation took place, has urgency been expressed. Since then, we, the chip truck carriers, and the highway department have reviewed safety measures, and positive actions have taken place."

You may also be interested in the response of one of the school bus drivers, Larry Sturm from Bigfork, to the incident referred to in his

letter to the editor of the Bigfork Eagle. I have taken the liberty of attaching a copy of that letter, for your information, as it appeared in the Bigfork paper.

On a final note; MMCA reviewed the results of two studies by the Rural Planning Section of the Department's Program Development Division, one in 1984 and the second in February, 1990, in light of what was described as ~~two~~ "near misses" between a semi truck and a school bus on Highway 35. The report entitled "Truck Traffic on East Shore Road" studied chip trucks off-tracking characteristics and how chip trucks generally negotiate the roadway. The conclusion in 1984 was...

"that these trucks stayed within their lanes very well and no problems were observed."

The 1990 study noted that truck configurations are basically the same except that...

"they are, however, using a second trailer or "pup" trailer now with greater frequency than in 1984 ... In conclusion, any offtracking or perceived offtracking problems associated with trucks as they travel FAP-52 (Highway 35) appears to be the most critical element affecting the operational posted limits. It appears that they are capable of traversing FAP-52 without posing a safety problem. However, the opposite may be true if the speed limits are ignored.

So, members of the committee, you can see there are no conclusive reasons for closing Highway 35 to truck traffic. Weighing the pluses and minuses of moving truck traffic strictly to Highway 93 would make it obvious that closure of Highway 35 to truck traffic is unnecessary and would set a precedent that would have severe ramifications. To quote a bumper sticker many trucks carried in the 1970's; "You don't have to love me, but a little understanding would sure help!"

I strongly urge the committee to vote NO on HB 680. Thank You.

**Car traffic,
not trucks
threaten safety**

Dear Editor,

The current school year is only a few days old and already there has been a report of a truck/bus "incident" on East Shore Highway 35. Just as with any story which supports a controversy the alleged "incident" has become grossly disproportionate compared to what actually happened.

Please be advised that at no time during this purported "incident" were my bus passengers in jeopardy nor was their safety at risk. The driver of the approaching vehicle and I were both doing what we were supposed to do. Further, there was no violation of the law and certainly no danger.

So, the time has come to put this situation into perspective. That perspective began last spring when I acquired the Bigfork to Yellow Bay bus route.

At that time, Supt. Jean Hagan, and I along with representatives of the major freight and forest products carriers began a joint effort to effectively alleviate, even eliminate, future truck/bus problems on the East Shore.

Many hours were spent in my contacting the carriers in person and by mail. Each of those carriers was sent a copy of my route and time schedule.

Supt. Hagan and I discussed the placement of "school bus stop" signs, the installation of a C.B. radio in my bus, the relocation of certain stops and other ways of improving bus safety on

the East Shore. These improvements have all been put into effect.

However, having all the pieces in place does not ensure a smooth running operation, yet, this process is running smoothly because all three parties are making an honest effort to make it do so.

At this point there is a stumbling block that involves a fourth group, i.e., the East Shore automobile traffic. For example, during the last two months of the past school year, seven cars ran through my red lights. Six of those were local and one of those locals committed the same violation twice in four days.

Since the safety and well-being of students on my bus is my primary concern, I shall continue to report safety violations to the Highway Patrol and the school administration.

Moreover, I will not sanction compromising the well-being of my passengers by using them and my bus to promote a controversy over traffic on East Shore Highway 35.

Larry Sturm
Bigfork

HB 680

EXHIBIT 14
DATE 2-16-91
HB 680

Barry Stang-Chairman
Floyd Gervais-Vice Chairman
Members Highways and Transportation Committee

I have read the articles and letters that have been published in the Bigfork Eagle the last few weeks concerning the grassroots movement to exclude trucks on Montana 35 between Bigfork and Polson. I am writing in response to the questions on maintenance funding and safety that have been raised on this issue.

As co-owner of a Kalispell based Trucking Company, I do know what we contribute to the State and Federal general funds. We have a small fleet of 16 trucks plus trailers, and our taxes that go to these funds amount to approximately \$247,908.00 per year. Of that amount, \$133,604.00 goes to the State and County funds, which include Montana State fuel tax, license, gross vehicle weight and route taxes and permits. The balance of \$114,304.00 is for Federal fuel tax, Highway use tax and Federal Excise tax on tires.

If we were to compare taxes and fees paid for passenger vehicles and trucks, it is very clear that trucks pay a much greater percentage. For instance, it would take approximately 3,870 passenger vehicles, with each one being driven 20,000 miles a year and making 20 miles to a gallon of gas and paying a license fee of \$300.00 a year to pay the same amount of taxes and fees for highway purposes as we pay on our small fleet of truck each year.

We too, are very concerned about safety and continually work with our drivers on this measure. All truck drivers have to abide by the stringent laws of the Department of Transportation, experience, driving record and physical fitness are only a few. We have always considered our drivers to be professional people. Also, all of our equipment is required to have an annual safety inspection and must display a decal that the safety standards are met.

Insurance companies issue awards for safe driving, and for three consecutive years, our company received a Fleet Safety Award for over one Million Accident free miles each year.

Our local children are also very important to us, and we are working with school bus drivers to insure their safety. Some of the area school bus drivers are calling out their blind stops on their CB radios so that their location is known to the truck drivers. We understand that this is working and are pleased with the results so our children have this extra safety feature.

EXHIBIT

14

DATE

2-16-91

HB

680

But, we also are concerned for the safety of our employees and the school children and residents on the West Shore. There are long steep hills on the West Shore which are very hazardous for trucks anytime the road conditions are snowy or icy. Of great concern to the truck drivers is the hill going south out of Lakeside, if anyone should have trouble going up the steep grade they are not visible to the northbound traffic cresting the hill, which presents a great danger for all. The feeling is, not if, but when the accidents occur on this hill that some residents of Lakeside also might be in grave danger. Also when driving Montana 35, Bigfork is the only community to drive by, while on the West Shore there is Somers, Lakeside, Elmo, Big Arm, and the city of Polson to drive through. Even with the improvements on Highway 93, it is much safer for the public in general and our employees to drive the East Shore route when loaded.

I believe that all of you will agree with us that we need to conserve our natural non-renewable resources in every way possible. Our drivers are instructed to travel Highway 93 when returning empty, but if forced to use that route entirely, we would needlessly waste approximately 33,000 gallons of fuel each year. If all local and out of state truckers were required to use Highway 93 exclusively, consider the thousands upon thousands of gallons of fuel that would unnecessarily be wasted every year. This forced irresponsible use of non-renewable resources would be inexcusable.

On a personal note, we have resided on the East Shore for the past 25 years. Also all four of our children attended Bigfork schools and rode the school buses.

Our hope is for the continued success for other Bigfork businesses also, now and years to come.

Sincerely,

Maudy Solberg

Amendments to House Bill No. 705
First Reading Copy

Requested by Rep. Galvin
For the Committee on Highways and Transportation

Prepared by Valencia Lane
February 15, 1991

1. Page 2, line 10.

Following: "(e)"

Strike: "(i)"

Following: "is"

Strike: "i:"

2. Page 2, line 11.

Strike: "(A)"

3. Page 2, line 15.

Following: "highway"

Strike: " ; or "

Insert: ". "

4. Page 2, lines 16 through 20.

Strike: subsection (B) in its entirety

5. Page 2, line 21.

Strike: "(ii)"

Following: "in"

Insert: "this"

6. Page 2, line 22.

Strike: "(1)(e)(i)(A) or (1)(e)(i)(B)"

EXHIBIT 16
DATE 2-16-91
HB 711

HOUSE OF REPRESENTATIVES

HIGHWAYS AND TRANSPORTATION COMMITTEE

ROLL CALL VOTE

DATE 2-16-91 BILL NO. HB 711 NUMBER _____

MOTION: Rep. Nelson made the Substitute
Motion that HB 711 Do PASS AS Amended
Motion Carried 15-2

NAME	AYE	NO
REP. FLOYD "BOB" GERVAIS, VICE-CHAIRMAN	✓	
REP. ERNEST BERGSAGEL		✓
REP. ROBERT CLARK	✓	
REP. JANE DEBRUYCKER	✓	
REP. ALVIN ELLIS, JR.	✓	
REP. GARY FELAND	✓	
REP. MIKE FOSTER	✓	
REP. PATRICK GALVIN	✓	
REP. DICK KNOX	✓	
REP. DON LARSON	✓	
REP. SCOTT MCCULLOCH	✓	
REP. JIM MADISON	✓	
REP. LINDA NELSON	✓	
REP. DON STEPPLER		✓
REP. HOWARD TOOLE	✓	
REP. ROLPH TUNBY	✓	
REP. BARRY "SPOOK" STANG, CHAIRMAN	✓	
TOTAL	15	2

STATEMENT BY: BILL YAEGER OF Helena, Representing the Montana
ASSOCIATION OF HIGHWAY PATROLMEN
IN SUPPORT OF: House Bill 711
BEFORE: THE HOUSE COMMITTEE ON HIGHWAYS AND TRANSPORTATION
FEBRUARY 16, 1991 1:30 p.m.

EXHIBIT 17
DATE 2-16-91
HB 711

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE. THE
ASSOCIATION OF MONTANA HIGHWAY PATROLMEN STRONGLY SUPPORTS
PASSAGE OF HB 711.

THE BILL ADDRESSES A CRITICAL NEED FOR PATROL RETIREES
WHO ARE INELIGIBLE FOR SOCIAL SECURITY AND TRYING TO
GET BY ON A VERY INADEQUATE RETIREMENT INCOME.

THE AVERAGE RETIREMENT PAID TO PATROL RETIREES IS \$844 WITH
SOME WHO RETIRED AFTER 20 YEARS OF SERVICE RECEIVING AS
LITTLE AS \$432.

THIS MEASURE PROVIDES FOR AN ANNUAL LUMP SUM PAYMENT
TO BE DISTRIBUTED PROPORTIONALLY TO ALL ELIGIBLE RECIPIENTS,
BASED UPON YEARS OF SERVICE AT TIME OF RETIREMENT.

I URGE YOUR SUPPORT FOR HB 711.

THANK YOU.

**HOUSE OF REPRESENTATIVES
VISITOR REGISTER**

Hiwang COMMITTEE Phillips BILL NO. 723
DATE 2-16-91 SPONSOR(S) _____

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
George Poston	United Veterans Com. of MT	X	
Dick Baumbarger	Disabled Am. Veterans	X	
Rich Brown	MT Bd of Veteran Affairs	X	
Diane Tolley	Motor Vehicle Div	X	
Hal Morrison	American Legion	X	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

**HOUSE OF REPRESENTATIVES
VISITOR REGISTER**

Hiway COMMITTEE HB BILL NO. 733
DATE 5-16 SPONSOR(S) Paulovich

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
George Poston	United Veterans Cir. of MT.	X	
RON DAVIS	Military Order Purple Heart	X	
RICH BROWN	MT Board of Veteran Affairs	X	
Denne Teoley	Motor Vehicle Div	X	
HAL MARSON	AMERICAN LEGION	X	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

**HOUSE OF REPRESENTATIVES
VISITOR REGISTER**

Hiring

COMMITTEE

BILL NO.

HB 751

DATE 2-16-91

SPONSOR(S)

Boharski

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Leon Stalcup	Montana Restaurant Assoc	X	
Diane Taley	Driver Services	X	

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HOUSE OF REPRESENTATIVES
VISITOR REGISTER

1 of 2

Highways & Trans

COMMITTEE

BILL NO. H.B. 680

DATE Feb. 16, 1991 SPONSOR(S) Thomas Lee

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Grant W. Buswell	Myself & wife		X
MORRIS CAMPBELL	MSIA Cartage Co.		X
JAMES W. JENSEN	SCHOOL BUS DRIVER/OWNER		X
RICHARD TURNER	MISSOULA CARTAGE DRIVER		X
LARRY STURM	LARRY STURM SCHOOL BUS		X
SHIRLEY FRAYER	SELF/TRUCK DRIVER		X
Marilyn Solberg	Solberg Trucking, Inc		X
Orrillo Solberg	Solberg Trucking, Inc		X
Bob ZACHARIASEN	MISSOULA CARTAGE CO		X
Tim Dowell	Rep HDS Kalispell		X
Rose Schwennesen	East Lake Shore, Bigfork	X	
Paul Gustin	East Lake Shore, Bigfork	X	
ANDY BAXTER	EAST LAKE SHORE REPAIR	X	
Cas Still	"	X	

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HOUSE OF REPRESENTATIVES
VISITOR REGISTER

2 of 2

Highway & Trans COMMITTEE BILL NO. 680
DATE 2/16/91 SPONSOR(S) T. Lee

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
H.J. WILSON Missoula	STONE CONTAINER		✓
Robert Samley	Self		✓
Robert L. White	Townsend LTR. CO. INC		X
Thomas Lee	HD 49	✓	
Quame Bant	DOH		✓
HANK BOTZLAFF	D. Q. H.		✓
CURT LAINGEN	MT MOTOR CARRIERS ASSN		X
BEN HAUDAHL	MT MOTOR CARRIERS ASSN		X
J. Shady	Self	?	?
Sen Elmer Harding	S.D. 25		✓
Don Allen	MT Wood Products Assoc		✓

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HOUSE OF REPRESENTATIVES
VISITOR REGISTER

Highways COMMITTEE BILL NO. 705
DATE 2-16-91 SPONSOR(S) Salvin

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Matt Ruper	Bmw E Rail Labor	X	
DAVE DITZEL	Brs of LOCOMOTIVE Engrs	X	
RAYMOND WEST	UTU	X	
DIANE Torkley	DRIVERS SERVICES	X	X
PAT KEIM	BNRR	X	
Richard Van Aken ^{Great Falls}	TCU Lodge 528	X	
Fran Marceau ^{Kalispell}	United Transportation Union	X	

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MINUTES

MONTANA SENATE 52nd LEGISLATURE - REGULAR SESSION COMMITTEE ON HIGHWAYS & TRANSPORTATION

Call to Order: By SENATOR CECIL WEEDING, Chairman, on March 21, 1991, at 3:00 p.m.

ROLL CALL

Members Present:

Cecil Weeding, Chairman (D)
Betty Bruski, Vice Chairman (D)
Bill Farrell (R)
John Harp (R)
Francis Koehnke (D)
Jerry Noble (R)
Jack Rea (D)
Lawrence Stimatz (D)
Larry Tveit (R)

Members Excused: None.

Staff Present: Paul Verdon (Legislative Council).
Pat Bennett, Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Announcements/Discussion:

CHAIRMAN WEEDING announced that there would be time limits set for testimony on House Bill 192. He asked that each side take 45 minutes, allowing 20 minutes for questions from the Committee.

HEARING ON HOUSE BILL 133

Presentation and Opening Statement by Sponsor:

REPRESENTATIVE PATRICK GALVIN, District #40, explained that HB 133 was a clarification bill on who is required to stop at railroad crossings. The original law has been misinterpreted by school bus drivers who as a result, have not been stopping at railroad crossings.

Proponents' Testimony:

RICHARD A. FLINK, Chairman of Montana Operation Lifesaver and Locomotive Engineer for Burlington Northern Railroad, testified in favor of HB 133. (SEE EXHIBIT 1)

ZACK CHRYSLER, Missoula, representing the Montana School Transportation Association, stated they support HB 133, however they would like to have the word "without" deleted from page 2, line 2. He stated that their drivers already stop at all rail crossings that are not guarded with lights or obstacles.

DAVE DITZEL, is a locomotive engineer and is also representing the Brotherhood of Locomotive Engineers, stated that there is a problem with the misconception the operators of motor vehicles about what their responsibility is.

DAYNA SWANSON, Office of Public Instruction, informed the Committee that Nancy Keenan, Superintendent of Public Instruction, wished to be on the record in support of HB 133.

GLENNA WORTMAN-OBIE, Manager of Public Relations and Safety for Triple A of Montana, expressed support for HB 133. It is of great importance that school buses and other vehicles that contain explosives stop at all railroad crossings. She stated that she has seen buses actually stop on the tracks because the traffic ahead of them was backed up so far. Interstate carriers are already required to stop. Some school districts have policies requiring school buses to stop. Consistency in practice throughout the state should help the general public understand that these vehicles are expected to stop. Stopping, loaded or not, will increase that consistency.

WAYNE BUDT, representing the Public Service commission, stated that the Commission is charged with rail safety for the State of Montana, therefore the Commission supports HB 133.

JOSEPH KUGLIN, Locomotive Engineer and Area Coordinator for Operation Lifesaver, testified in support of HB 133. (SEE EXHIBIT 2)

PAT KEIM, Director of Governmental Affairs for Burlington Northern Railroad, testified in support of HB 133. He gave testimony of an incident in Spokane, Washington, when a car transporting children was struck by an Amtrak train. Mr. Kuglin also submitted written testimony from Donna Hall, Hall Transit. (SEE EXHIBIT 3) He stated that while he was inspecting track by Blossberg near Austin he witnessed a bus crossing the railroad without stopping, it was then that he realized Montana did not require school buses to stop at crossings. Two provisions in the bill apply to this. On page 2, line 21, which states "except where governed by a traffic control signal". In some instances people were interpreting that to mean a railroad signal not crossing. Federal standards do not define a railroad crossing signal as traffic control. The traffic control signal is a red or green light. On lines 23 through 25 states that it shall not apply to street railway grade crossing within a business or residential district. This is referring to trolley lines, there are not any left in Montana.

Opponents' Testimony:

KAY FOSTER, representing the City of Billings Transit Department and the Montana Transit Association distributed written testimony by Ron Wenger. (SEE EXHIBIT 4) She stated that HB 133 has negative impact on their MET Transit System.

Questions From Committee Members:

SENATOR FARRELL asked Representative Galvin if, since this is so dangerous, why they do not require that grade crossings have arms and soft track?

REPRESENTATIVE GALVIN asked if Senator Farrell felt a grade arm would stop a vehicle. He stated that he has witnessed it being taken off by a vehicle.

SENATOR FARRELL said that it had been testified that sometimes the crossing arms or signals do not work and that is why they are asking if this would make the railroad negligent. Will changing this law change the liability from the railroad crossing to the car owner?

REPRESENTATIVE GALVIN stated that the railroad company owns the crossing, the person in the vehicle that does not brake for the crossing is a trespasser.

SENATOR FARRELL asked should the signal not work and it causes an accident, does that change the liability?

REPRESENTATIVE GALVIN stated he did not know.

Closing by Sponsor:

REPRESENTATIVE GALVIN closed the hearing on HB 133. He stated he has witnessed many crossing accidents, and that this law needs to be clarified.

CHAIRMAN WEEDING asked if he had a sponsor to carry the bill should it pass the Committee.

REPRESENTATIVE GALVIN said Senator Noble would carry the bill.

HEARING ON HOUSE BILL 301

Presentation and Opening Statement by Sponsor:

REPRESENTATIVE DAVID WANZENRIED, District #7, explained that HB 301 would remove the requirement for one-year residency to become an officer with the Montana Highway Patrol. Under the current law you must reside for one year in Montana before becoming a highway patrolman. The last supreme court decision made it clear that this type of restriction is unconstitutional.

REPRESENTATIVE WANZENRIED explained that page 1, line 25, is a section of law that requires the highway patrol to hire officers in each of five districts. You want to be able to recruit the most qualified individuals and not be limited by mandate. This bill removes that requirement.

Proponents' Testimony:

PETER FUNK, representing the Attorney General's Office, stated that the residency requirements stricken on page 1, line 19 have not been stricken by the supreme court. The statutory provisions still require that patrol officers would need to be residents of the State of Montana. It will just do away with the one year prior residency.

BOB GRIFFITH, representing the Montana Highway Patrol, supports HB 301.

Opponents' Testimony:

None.

Questions From Committee Members:

None.

Closing by Sponsor:

REPRESENTATIVE WANZENRIED closed the hearing on HB 301.

HEARING ON HOUSE BILL 192

Presentation and Opening Statement by Sponsor:

REPRESENTATIVE DAVID WANZENRIED, District #7, stated that HB 192 which makes a policy decision on the part of the state with respect to the way pricing truckers are compensated for hauling logs in Montana. (SEE EXHIBIT 5) HB 192 is a bill to establish fairness and equity in the transportation laws. The bill proposes to put log hauling under the economic regulation of the Public Service Commission. Currently, logs are treated as an agricultural commodity in the statutes and are exempt from the PSC regulation for transportation in Montana. In this bill, it is proposed to change that exemption, putting log trucks under the jurisdiction of the PSC. He stated that HB 192 has nothing to do with how safe the operation is, it has to do with the amount of money that will be paid to move that log from the forest to the mill. Representative Wanzenried stated that though they are attempting to change agricultural exemption on logs, the GVW fees will not be changed. This bill is not the first to address this problem.

REPRESENTATIVE WANZENRIED stated that in 1989 Representative Peterson introduced a bill which did pretty much the same thing. At that time there was a commitment made on part of the industry to meet with individuals to see if anything could be done on the amount of money paid. He stated that this never happened. Fourteen other states currently regulate the intrastate transportation of logs. Two states in this region, Washington and Oregon, have economic regulation. Idaho is presently in the process of considering a bill of this nature. This is not the only commodity the PSC would regulate. Ben Havdahl will turn in testimony which has a list of other commodities listed. This bill would allow the PSC to approve rates that are compensatory. He stated that the bill would not keep inefficient operators in business nor will it put efficient operators out of business. The bill provides that if you haul logs from April 1, 1990 you would automatically be granted a certificate to haul logs in the future. Anyone wanting to haul logs after that date, who does not have a business, may get into it the same way. There is a way that the authority will be transferrable from one party to another. Authority once granted has to have been used. The bill does not apply to private carriers. Those who choose to have their own trucks to haul their own logs would not be subject to the regulation. The bill proposes to place laws in position of being under the PSC control for establishing rates to be charged for going from point a to point b. The rates being paid now are the same rates being paid in 1978. It is compounded on the basis of the shipper having control over those who haul logs. Representative Wanzenried referred to a chart depicting the log hauling procedure. (SEE EXHIBIT 5) House Bill 192 will establish one certificate, a Class E, to concurrent operating authorities. A common carrier or individual or group through a tariff bureau can propose rates to be approved by the PSC for the hauling of logs in Montana. The bill also proposes the same theory be granted contract authority.

Proponents' Testimony:

REPRESENTATIVE MARY LOU PETERSON, testified in support of HB 192. She stated that she sponsored a similar bill last session which address the unfairness in this industry, that unfairness still exists. This bill sets out to correct some of those.

BEN HAVDAHL, Executive Vice President of the Montana Motor Carriers Association, testified in support of HB 192. (SEE EXHIBIT 6) He also submitted a sample of the Montana Livestock Tariff. (SEE EXHIBIT 6A)

PATRICIA A. SLACK submitted written testimony in support of HB 192. (SEE EXHIBIT 7)

LYLE DOTY, Kalispell, Montana, testified in favor of HB 192. (SEE EXHIBIT 8)

ARLETTA MRGICH, Eureka, Montana, testified in support of HB

192. (SEE EXHIBIT 9)

DAVE SPARING, Eureka, Montana, testified in favor HB 192.
(SEE EXHIBIT 10)

DAVE SKRANAK, Eureka, Montana, testified in support of HB 192. (SEE EXHIBIT 11)

SAM BRADY, Whitefish, Montana, submitted testimony in support of HB 192. (SEE EXHIBIT 12)

R. T. ADKINS, Kalispell, Montana, testified in support of HB 192. He stated he has hauled logs in Montana for the last 35 years. In the early 1970's log haulers were forced to be independent operators, carrying their own worker's compensation and their own unemployment. In that 35 years, he stated he had never had a contract nor did he know what the price would be until he got his check.

MIKE MRGICH expressed support for HB 192.

HARLEY JONES, Missoula, Montana, testified HB 192. He stated he has been hauling for the same contractor since 1978. It has gotten to be where it is more miles, longer hours, less pay and more expense.

ED HANKINSON, stated he has hauled logs for the last ten years. Since then the rate has steadily decreased. There used to be a set standard as far as how roads were classified. In the past ten years the sale is figured on the haul days from the beginning of the sale, which with some sales which would mean 2 to 3 miles difference.

ARVON FIELDING, Kalispell, Montana, stated he is an independent operator who supports HB 192. He said he does not have any say in the rate for his services.

RAY DUDLEY, Kalispell, Montana, informed the Committee that he has been a log trucker for 31 years. He asked the Committee to please give HB 192 a do pass.

DEAN STACY, Eureka, Montana, asked the Committee to support HB 192 stating that while the mills have had record breaking profits, the log truckers have not had an increase in their rates.

Opponents' Testimony:

REPRESENTATIVE JIM ELLIOTT, District #51, stated he represents many people who are in this business. Two years ago when Representative Peterson introduced a similar bill it was a controversial issue in his district. It was controversial because there were people for it and there were people who were against it. He stated that when he heard about the bill coming up again he set up a meeting in Noxon with Senator Paul Svrcek and Representative Barry Stang. He stated that he was not able to attend due to a death in the family, however 50 other people did attend that meeting. It is no longer a controversial bill. Nobody likes the bill. He stated he has not heard from anyone asking him to support the bill. One of the main concerns is that they have a lot of interstate traffic with the State of Idaho. There is a bill of this nature in Idaho. But if that bill fails in Idaho and it passes in Montana, there is a fear that there will be many overweight rigs running across Montana putting Montana haulers out of business.

SENATOR PAUL SVRCEK, District #26, testified in opposition of HB 192. He stated he had received a lot of mail from his constituents and not one was in favor of HB 192. There is a fear with this bill as far as the independent contractors cannibalizing each other. This is not what the rural areas around Montana need.

BART COOPER, Boulder, Montana, testified against HB 192. (SEE EXHIBIT 13) He stated that he hires to have his logs hauled. When the job is ordered, the hired hauler figures the rate. There is not any contract nor is there any problem. He stated that he knows right from the beginning what he will be paying the hauler.

RICHARD COVERDELL, Columbia Falls, Montana, testified in opposition to HB 192. (SEE EXHIBIT 14)

KEITH OLSON, Executive Director of the Montana Logging Association who represents 600 independent logging contractors. The membership includes those who log, those who haul and those who do both. He stated that the PSC can not regulate this. The bill is ambiguous as far as who will receive PSC authority. It also allows contract deviations to 90% of tariffs. This legislation will limits truckers to contracts. It is entirely too restrictive. Over time this legislation will allow truckers with Class C authority to freely purchase logging equipment. Logging contractors without Class C authority will not have that access. Mr. Olson stated that nothing in this legislation can address the real problem.

PENNY TOLLEFFSON, Missoula, Montana, testified against HB 192. She said she felt this was a bad piece of legislation. Their truckers haul for 88 different people and under this bill they would have to get PSC permission for each truck. She said they have contracts and do not want to be legislated.

BILL COWGER, Townsend, Montana, testified against HB 192.

JEANNETTE HAHN, Bozeman, Montana, testified in opposition to HB 192. (SEE EXHIBIT 15)

RICHARD HARGROVE, Gallatin Gateway, Montana, opposed House Bill 192. It is not up to the PSC to guarantee their business profits, that responsibility is the businessman's. Log haulers need to be able to negotiate with their contractors.

ERNIE FORREY, Townsend, Montana, stated he is an independent log trucker and has been in the business for 20 years. He has different haul rates depending on the haul. This bill was originated in another area of the State and it seems they are the only ones who are supporting it. (SEE EXHIBIT 16)

LEROY CHRISTOFFERSON, Missoula, Montana, testified against HB 192. (SEE EXHIBIT 17)

JIM LEU, Darby, Montana, informed the Committee that he has been hauling logs for 20 years and at the present time has 12 log trucks. Mr. Leu stated they would like to keep the ability to negotiate their own contracts with whoever he is working for. He stated they do not need any more government control. This industry has a lot of problems, but PSC control will not stop those problems.

ART PERRY, Belgrade, Montana, stated he has been in business for 30 years and has survived without PSC regulation. He opposes HB 192 and submitted a petition with signatures of other who also oppose HB 192. (SEE EXHIBIT 18)

DAN NORMANDEAU, Thompson Falls, Montana, testified against HB 192. (SEE EXHIBIT 19)

LEE WILHELM, Bozeman, Montana, stated he can not understand anyone hauling not knowing the rate. He said he is opposed to HB 192.

TRACY PERKINS, Belgrade, Montana, expressed opposition for HB 192.

DONNA NORMANDEAU, Thompson Falls, Montana, testified against HB 192. (SEE EXHIBIT 20)

RODNEY HAHN testified against HB 192.

Questions From Committee Members:

SENATOR HARP asked if there was anyone present who hauled logs from the Northwestern part of Montana for Plum Creek.

DAN NORMANDEAU stated he has no problem with knowing what his payment will be. In fact, a fuel increase had been discussed. He stated that he works for Sunrise Logging Company.

SENATOR HARP asked Dick Coverdell if under Stoltz Lumber Company he has a written contract. Senator Harp also asked if Plum Creek issues contracts.

DICK COVERDELL said he does have a contract. He stated that he is not aware of Plum Creek giving contracts. Plum Creek hires the logger, and the logger is expected to hire the truckers. There is a hauling rate put into the hauling contract, except some of the loggers don't seem to get a rate on their own.

SENATOR HARP asked what we can do with those who do not get contracts.

DICK COVERDELL answered the State of Montana could say "there will be a contract".

SENATOR HARP asked for information pertaining to Champion International concerning contracts.

DICK COVERDELL stated he was not familiar with Champion.

MIKE MRGICH informed the Committee that Champion does not furnish contracts.

SENATOR HARP stated that it is his understanding that Champion in Missoula has contracts, however in Libby they do not have contracts.

MIKE MRGICH stated that he has hauled several times for this log contractor and he always asks what they will pay. They get upset about being asked and usually respond that "they will pay what they pay".

SENATOR FARRELL asked Leroy Christofferson if he has a contract with Champion in Missoula.

LEROY CHRISTOFFERSON stated he has for 26 years.

SENATOR FARRELL asked if Champion in Missoula signs contracts with other logging truckers.

LEROY CHRISTOFFERSON stated that they do have signed contracts and that Hill Trucking does, but he did not know about the other areas.

SENATE HIGHWAYS & TRANSPORTATION COMMITTEE

March 21, 1991

Page 10 of 12

SENATOR NOBLE asked George Wilson about the Polson area.

GEORGE WILSON, Thompson Falls, stated he hauls in Polson and Libby under contract with Champion. He stated that he also hires other truckers and they get the same rate from Champion.

SENATOR NOBLE asked Representative Wanzenried about the meeting that was held when the bill was first being drafted.

REPRESENTATIVE WANZENRIED stated that he did not attend, nor was Wayne Budt there because there was a letter sent out asking people to respond if they wished the PSC to be there. No one did that. He stated that Representative Stang and Representative Elliot were at that meeting. There was subtle intimidation regarding the regulation.

SENATOR NOBLE asked if anyone from Southwestern Montana attended the meeting.

REPRESENTATIVE WANZENRIED stated that they had three meetings prior to the legislative meeting in January. The meetings took place in Kalispell, Missoula and Bozeman. It was very clear that there was a divided attitude about regulating. He stated that he feels this bill will establish a fair rate.

SENATOR HARP asked about the two suggestions as far as the State having contracts and about the idea of public disclosure.

REPRESENTATIVE WANZENRIED stated that with regard to the responses to the suggestions, it would be interesting to see how Plum Creek would feel about making their information public.

SENATOR HARP asked if the set percentage is actually a safety net with the small haulers.

REPRESENTATIVE WANZENRIED stated that was true. He said that if any of these people compile their contract rates but they could not negotiate after those rates were approved by the PSC pertaining to anything less than 90% of that. This provides a minimum.

SENATOR HARP asked if someone from Plum Creek would respond to a question. He asked if he has contracts with the haulers.

JOHN MARCEAU, Belgrade, said they do not, they negotiate for delivering logs with the log contractors.

SENATOR HARP asked if in Columbia Falls if they have contracts.

JOHN MARCEAU said they do not. On occasion they have made a separate contract. The primary reason for have two contracts is because if you write a separate contract for loading and hauling, there is always a hassle when it comes to the loading process. Because sometimes the logs are not decked properly or the limbs are not all trimmed off.

SENATOR HARP asked if Plum Creek would be willing to enter into contracts or if they would be agreeable to a public disclosure.

JOHN MARCEAU stated that it would not be a problem to disclose prices if they were not liable from a legal aspect to the primary contractor. He stressed that if they are not liable for a lawsuit with the contractor for disclosing to the truckers what the rate would be, there would not be any problem.

SENATOR FARRELL asked how many logging contractors last year asked for a fuel surcharge.

JOHN MARCEAU said that there was an adjustment made to all contractors.

SENATOR FARRELL asked if it was passed onto the truckers.

JOHN MARCEAU stated he could not answer that.

SENATOR TVEIT asked about the process of the logging contractor and about Belgrade.

JOHN MARCEAU stated they do not have the problem that they have in Northwestern Montana.

SENATOR TVEIT asked Lyle Doty what the problem is, if it is due to no contract or due to the low rates.

LYLE DOTY stated that there is always an excuse why they can not be told the haul rate. Sometimes they do not know what they will get for a haul rate for 30 to 120 days later.

SENATOR FARRELL asked how they establish the haul rate before knowing what the trucks are willing to haul for.

JOHN MARCEAU stated they have an analysis based on the Plum Creek formula. There is a process where they calculate cost on the basis of the road condition. It is based on what they will be able to get their logs hauled for. Several years ago the truckers and the mills got together and came up with a formula.

SENATOR FARRELL asked Mr. Christofferson if he is asked when getting a contract what your rates are before they bid.

LEROY CHRISTOFFERSON stated they use their formula.

SENATOR FARRELL asked if they use the formula to figure the rates before the contract is signed.

LEROY CHRISTOFFERSON stated they renew their yearly contracts in April and this is when the formula is used. Any increases are included at that time. He stated the only time there is a problem is if they refuse to pay the Plum Creek rate.

SENATOR FARRELL asked Representative Wanzenried, how, under this bill, log homes will be handled. Would the trucker hauling log homes need Class E authority.

REPRESENTATIVE WANZENRIED said that was correct, they would need Class E authority.

SENATOR FARRELL asked if a log truck dumps on the highway and a highway patrolman is called in, they in turn ask another trucker to get them off the road. What happens in an emergency situation when this trucker does not have a contract or rate.

REPRESENTATIVE WANZENRIED stated that if a self hauler is called up and he has a published tariff, that is what the hauler will get from the point of pickup to the point of the drop off.

Closing by Sponsor:

REPRESENTATIVE DAVID WANZENRIED closed the hearing on HB 192. He stated that HB 192 allows for contracts. Regarding the fuel surcharge, the mills stated they did not receive that adjustment. If HB 192 passes the trucks coming in from Idaho will have to have authority to operate in Montana. The log truckers can not go collectively to the mills to talk about the rates. The mills do not encourage the haulers to have any input on what their expenses are. Those who haul logs will not lose their agriculture exemptions. He stated that it was mentioned that it was not clear who would qualify for a Class E certificate. On page 11, section 9 tells who will qualify. Those who are hauling now until October 1 will receive that certificate to operate. There will not be a significant increase in paper work, anyone in business already keeps good records and those records will be the basis for reporting. The bill provides foundation in this state for establishing rates being charged to haul from point to point. He stated that House Bill 236 addresses number of hours being driven, safety requirements, or physicals, HB 192 does not include this.

SENATE HIGHWAYS & TRANSPORTATION COMMITTEE

March 21, 1991

Page 13 of 12

REPRESENTATIVE WANZENRIED stated that the Flathead area is not the only one having these problems. Other states have had this problem, Idaho is one of them. He submitted petitions in support of HB 192. (SEE EXHIBIT 21)

ADJOURNMENT

Adjournment At: 6:45 p.m.



SENATOR CECIL WEEDING, Chairman



PAT BENNETT, Secretary

CW/pb

Richard A. Flink
MT. State Coordinator
Operation Lifesaver
238 Lupfer Ave.
Whitefish, Mt. 59937
(406) 862-0262

EXHIBIT NO. 1
DATE 3-21-91
BILL NO. HB 133



Testimony of Richard A. Flink in support of House Bill 133
238 Lupfer Ave.
Whitefish, MT. 59937
(406)862-4547

Montana Operation Lifesaver Chairman/Coordinator
Member of National Operation Lifesaver Inc. 1992 National Symposium Planning Board.
Recently nominated to National Operation Lifesaver Program Development Council.
Locomotive Engineer for Burlington Northern Railroad.
Montana Resident and Parent.

Mr. Chairman and members of the Committee:

My name is Richard A. Flink and I live in Whitefish MT. I am the Montana Operation Lifesaver Chairman and Coordinator, A newly appointed member of the National Operation Lifesaver Inc 1992 National Symposium Planning Board. I was just recently nominated to the National Operation Lifesaver Program Development Council. I work as a full time Locomotive Engineer for the Burlington Northern Railroad and I am a long time resident and parent of the state of Montana. I am here today to speak as a proponent for House Bill 133.

First of all, for those members of the Committee who are not familiar with the Operation Lifesaver Program, I'd like to briefly explain what the program is and what Operation Lifesaver is trying to accomplish. Operation Lifesaver is a Grass Roots Safety Coalition made up of volunteers from State and Federal Government agencies, different highway safety groups, all the Railroads which operate in the state of Montana and several other individuals and groups with an interest in the elimination of collisions at highway/railroad crossings. Operation Lifesaver is in the process of accomplishing this through what we call the 3 E's, Education, Engineering, and Enforcement. We are also concerned with seeing that outdated and unclear laws are changed and/or repealed. We also are interested in the passage of new and better laws designed with the safety and protection of the citizens of the state of Montana in mind. The bill in question today, House Bill 133 is designed to upgrade and clarify an existing law. As a member of the Operation Lifesaver Coalition, I make educational presentations to a wide variety of groups and organizations. One the groups that I have a lot of contact with is the School Bus Drivers in our state. Inevitably the topic of discussion after my formal presentation to these drivers is, what just exactly the current law means. There is major confusion not only with the drivers and their supervisors, but also with me and the Highway Patrolmen I have taken along with me to these presentations just for the express purpose of explaining what the laws says. There is a great deal of confusion as where and when school buses must stop at highway/railroad crossings. House Bill 133 is designed to stop this confusion.

Specifically what is being address in this bill are two items that have caused confusion as to whether or not school buses and hazardous material carriers should or should not stop. First of all, is the provision that exempts school buses from stopping at railroad crossings where a traffic control signal governs movement of the crossing. Federal regulations define a traffic control signal as a device that is essentially a stop-light. The misinterpretation has been that some people feel that a grade crossing signal not flashing indicates "proceed." By definition under federal regulations, a grade crossing signal is not a traffic control signal. This bill would clarify that a grade crossing signal is not a traffic control signal. The reason that a grade crossing signal not flashing does not indicate "proceed" is because of the possibility, however remote, of the failure of one of these signals to work while a train is approaching. The facts are, it can happen.

The second area of misinterpretation is contained in section 1, Paragraph C where it exempts buses from stopping at the "street railway grade crossing." A street railway is a trolley car line, but we find that this section is being misinterpreted to mean a place where a street crosses a railroad. That was not the intent of this part, and since there are no trolley car lines left in Montana, this bill would eliminate that reference and therefore that misinterpretation.

In addition to being concerned with this bill as the Operation Lifesaver Chairman, I am concerned with the passage of this bill as a Locomotive Engineer. My concern lies with the physical and mental health of myself and my fellow employees. We have a saying on the railroad concerning the possible collisions we can encounter at highway/railroad crossings. That saying is: "If I hit a gasoline or a propane truck I will never live long enough to tell about it. If I hit a School Bus I will never live long enough to forget it." I have been involved in several collisions with vehicles at highway/railroad crossings in my 20 plus years working for the railroad. Since I was promoted to a Locomotive Engineer 11 years ago, I have had 3 very close calls with School Buses not stopping at railroad crossings, and 2 extremely close calls with propane trucks again not stopping at railroad crossings. I cannot begin to explain to you the nightmares I get associated with the collisions and near misses I've had. I just hope you never will have to experience anything similar. This bill would be a major step towards stopping near misses and collisions at Highway/railroad crossings in Montana.

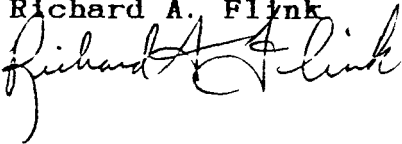
Finally I am concerned with the passage of House Bill 133 as a Montana resident and parent. As a resident I am concerned with what would happen to my family, property, and community if a train were to have a collision with a Hazardous Material carrier such as a gasoline, chemical or propane truck. There have been in recent years many news stories on just this subject across our nation. There is always major destruction involved with such collisions, and usually the collision has occurred as a result of the failure of the Haz Mat carrier to stop at a railroad crossing.

EX. 1
3-21-91
HB 133

As a parent I have 2 school age children that have ridden and will continue to ride School Buses for different school events. I am concerned with their safety as we all should be concerned with the safety of all the children in the state of Montana. I have heard there is an objection to the passage of this bill because some Transportation Companies will have to add 10 or 15 minutes to their schedules, and will have to pay more to their drivers. I would like to know what is the cost of our children's safety. Also I have heard some people would not like to see this bill passed because there would be an increase in "rear end collisions" with School buses at railroad crossings. First of all, if I were a betting man, I probably could have won my next months wages in bets with people who knew that all School Buses have to stop at railroad crossings in Montana. People in Montana think now that these buses have to stop and look out for them. Also, there is a pamphlet out called "A Montana School Bus - The Safest Vehicle on America's Roads." I believe they are. But think of the damage an automobile can cause by "rear ending" a bus and then look at these pictures of what a train can do hitting a School Bus at 60 mph. You and I cannot allow this type of collision to ever occur in Montana, our children are too precious to waste. There are only two states in the United States that allow School Buses and Hazardous Material carriers to cross highway/railroad crossings without stopping. Those two states are Wisconsin and Montana. Wisconsin is in the process of changing their law.

Mr Chairman and members of the committee please for the protection of the youth and the people of Montana, send this bill, House Bill 133 to the floor of the Senate with the highest DO PASS RECOMMENDATION that is possible. Thank you for your time and your highest consideration of House Bill 133.

Richard A. Flink



BRIEFLY

Train strikes school bus, killing two

MILTONA, Minn. (AP) — A freight train struck a school bus today in this west-central Minnesota town, killing at least two and injuring more than 20, authorities said.

Jan Vere, spokeswoman for Douglas County Hospital in Alexandria, said 23 people were brought to the hospital after the accident on a county road. Two people were confirmed dead, she said, but she was unsure whether they were among the 23.

The accident happened around 7:30 a.m. in Miltona, about 10 miles north of Alexandria, the Douglas County Sheriff's Department said. The cause was not immediately known.

Deanna Schultz, secretary for the Miltona Science Magnet School, said the bus had just dropped off some children at the Miltona school and was on its way to Alexandria with upper-grade students.

not

Bus-train accident reconstructed

by Ernie Silbernagel

A fatal train and school bus accident at the Soo Line crossing in Miltona drew the attention of investigators from the state, railroad, and National Transportation Safety Board. The driver of the school bus, Fred Beman, 66, and 9-year-old Kristian Rindahl of Carlos were killed instantly in the Friday morning accident. Rindahl was being transported to the Zion Lutheran School, and the other students on the bus were high school and junior high students in Alexandria.

The accident occurred about 7:20 a.m. Friday morning after the bus dropped off students at the Miltona Elementary School. About two blocks from the school, the bus with 22 students, was struck by the train. All were taken to the Douglas County Hospital where 14 students were treated and released, and seven were kept in the hospital, one of which was seriously injured and required extensive surgery. One remained

hospitalized in fair condition on Monday.

More than 25 witnesses of the accident told authorities that the driver did not stop at the railroad crossing. A Soo Line official said the engineer saw the bus approach the crossing as if it was stopping, but the bus "drifted on to the tracks." The north bound train struck the west bound stub nose bus on the right front, where the driver was sitting. The impact spun the bus around and broke a power line pole. Six students were reported thrown from the bus. Beman has driven school bus for ten years.

It was just two years ago on December 5, 1988 that Vicki Coyer and her parents Myra and Lester were killed at the same crossing. Five deaths in less than two years has renewed the cry for flashing lights and stop arms at the crossing. After the accident in 1988, the Minnesota Department of Transportation (MNDOT) determined that the Miltona crossing did not need any more markings than the stop sign and markers that are there. One Soo Line official remarked that it is a wide open crossing if drivers would only stop and look before crossing. There are four scheduled trains, and there could

be as many or more special trains through Miltona each day. The 120 car freight train in Friday's accident was two hours late. The 5,800 ton train traveling 40 miles per hour took about 900 feet to stop after the collision.

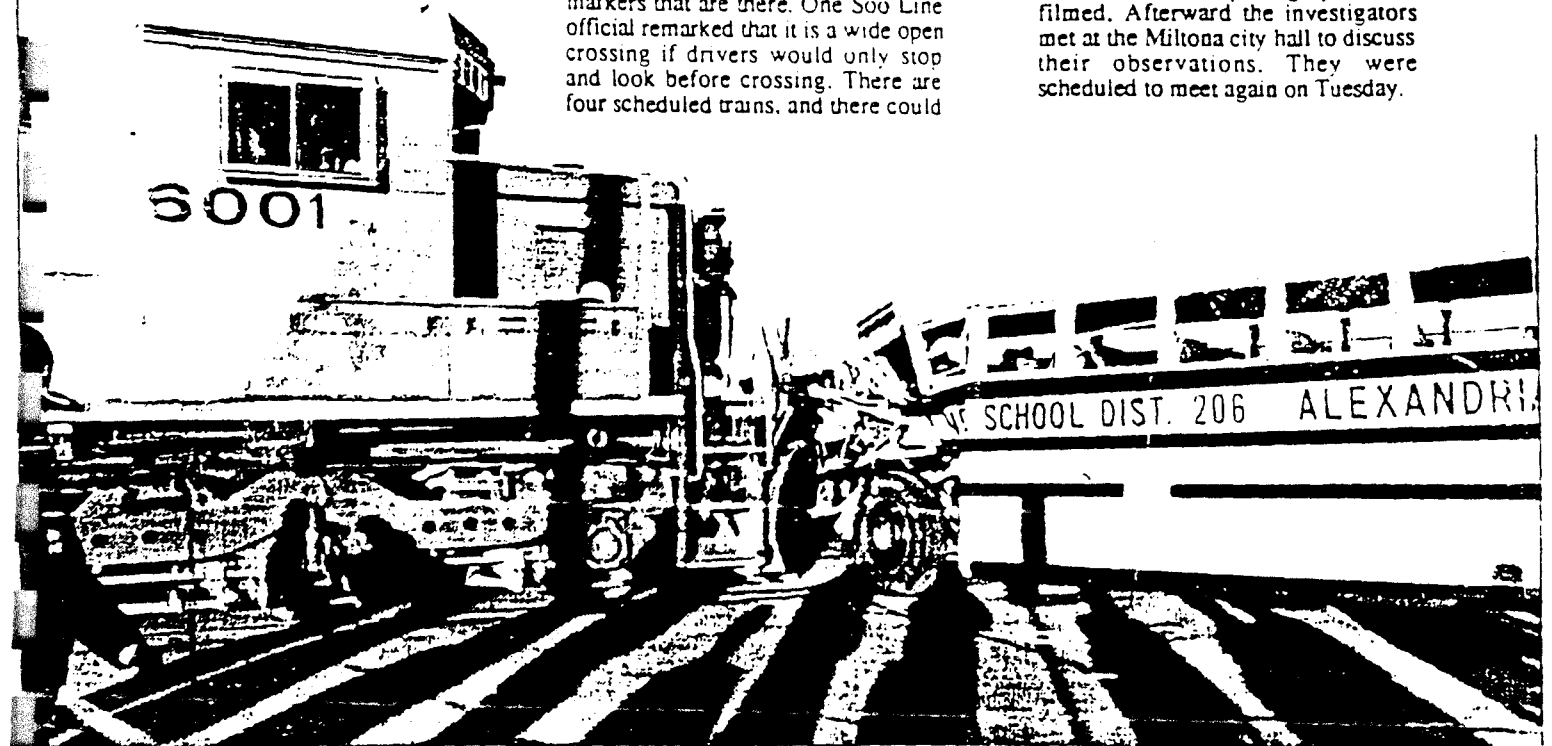
Early Saturday morning officials gathered in Miltona to reconstruct the accident at the same time of day. They drove a bus down the street and a train down the tracks at 7:20 to try to determine why the driver didn't stop. A Soo Line official that rode in the bus as it approached the tracks said the large mirror on the bus obstructed the drivers view of the train until the bus was one to two bus lengths from the track. During the second run by the bus and train, the people riding in the bus did not hear the train whistle over their own conversation and the radio playing.

After the trial runs, investigators put the bus from the accident on the tracks with the train, and examined the points of impact. Every aspect of the collision was photographed and filmed. Afterward the investigators met at the Miltona city hall to discuss their observations. They were scheduled to meet again on Tuesday.

Ex. 1

3-21-91

HB 133



Officials cast long shadows as they photographed the reconstruction of the school bus and train accident that killed a student and driver last Friday in Miltona.

Fort Wayne, Indiana, News-Sentinel
December 19, 1990

Train crashes into grain truck

A Poneto man survived a train-truck crash yesterday in Wells County. Police say Lee Sills Jr., 65, was driving a grain truck on Wells County Road 100W, near County Road 800S, at 8:40 a.m. when it was struck by a Norfolk Southern freight train. Sills, who is being treated for a broken leg, bruised shoulder and cuts to his head, said he did not see or hear the approaching train when he stopped at the crossing just before he drove into the train's path.

Mobile, Alabama, Register - November 27

Truck hits train at Docks entrance

A truck collided with a train Monday at about 9 a.m. at Telegraph and Deakie roads at the rear entrance to the Alabama State Docks.

A Mobile Police Department spokesman said there were no injuries. The truck and Burlington-Northern train received minor damage, he said.

The driver of the truck, Russell D. King, 27, of Thompsonville, Ill., apparently did not see the train and ran into it, the spokesman said.

The truck is owned by Micow of Des Moines, Iowa.

Dedicated to Safety at Grade Crossings and on Tracks and Trestles

Issued:

August 1, 1990

Public Relations, Norfolk Southern
8 N. Jefferson St.
Roanoke, Va. 24042-0043
(703) 981-5426

The Virginian-Pilot and Ledger-Star, Norfolk, Virginia - June 30, 1990

Flaming gasoline spews from truck hit by train

By John Cochran
Staff writer

CHESAPEAKE — Thousands of gallons of burning gasoline spewed across a South Norfolk railroad crossing Friday afternoon when a train struck a tanker truck.

The explosion and fire melted the tanker truck and briefly knocked out power to more than 500 customers.

The truck had filled up minutes before with 3,000 gallons of gasoline at a Texaco fuel storage complex at the end of Rosemont Avenue, fire officials said. It was traveling north across railroad tracks inside the complex about 3:15 p.m. when a Norfolk Southern train, traveling east, rammed the tank.

The tanker crumpled, exploded into flames and melted in the intense heat, Chesapeake Fire Inspector Greg Orfield said. A column of thick, gray smoke rose hundreds of feet into the air.

The train's brakeman, Ernest Pickett, was in serious condition Friday evening at Sentara Norfolk General Hospital with third-degree burns on his back, chest and arms.

The truck driver, Tyrone Wisner of Portsmouth, and the train's engineer, E.A. White, were treated for minor burns and released.

The addresses and ages of the three men were not available Friday evening.

Rescuers had difficulty getting to Wisner, who lay with the charred chassis of his truck on the north side of the train, Orfield said.

The rescue workers feared the fire would set off another explosion in nearby storage tanks, which contained millions of gallons of gasoline. But earthen

“You think it's hot now, you should have been here when it first started. You could feel the heat way over here.”

Jerrell Harvey, resident of the 700 block of Bank St.

when burning utility poles collapsed. Virginia Power crews restored service to all but the Texaco facility within three hours.

Some neighbors across from the storage facility said they had run for cover when the accident happened, thinking that the huge tanks hundreds of feet away were exploding. Flames leapt above the storage facility's fence, they said.

As the fire died down, many gathered on their front lawns to watch the smoke rise.

“You think it's hot now, you should have been here when it first started,” said Jerrell Harvey,

who lives nearby in the 700 block of Bank St.

“You could feel the heat way over here.”

Alton Wilson of the 800 block of Bannister St. said he heard three rapid explosions and then ran up the street toward the smoke.

“The flames were higher than the tanks,” he said.

Texaco officials blocked off the entrance to the facility Friday afternoon and kept neighbors and media away from the still-smoldering wreckage of the tanker truck.

In Memoriam

Roanoke, Virginia, Times & World-News
July 17, 1990

PICKETT, EARNEST C., JR.

VIRGINIA BEACH — Earnest Claude Pickett, Jr., age 54, a conductor for Norfolk Southern Railroad Co., died July 14, 1990 in a Norfolk, Va. hospital. Mr. Pickett died from injuries he received when a Norfolk Southern train he was working on collided with a gas truck June 29 at a gasoline bulk plant in Chesapeake, Va. He is a native Smyth County, Va. and was employed with the railroad for 37 years. He was a member of Carmi Baptist Church in Sugar Grove, Va. He was also a member of

the United Transportation Union. Survivors include his wife, Ann M. Pickett; his mother, Leona Mae Hawke Pickett, Sugar Grove; two sisters, Ruth McMahan, Marion; Brenda Myers, Daleville; four brothers, Paul Pickett, Independence; Dean Pickett, Sugar Grove; Rev. James Pickett, Hot Springs; Dan Pickett, Huntersville, N.C. The funeral will be conducted Tuesday, July 17 at 10:00 a.m. at Kellum Funeral Home, Virginia Beach by the Rev. Willard Reedy. Burial will be in Rosewood Memorial Park.

Please see **TANKER**, Page B3

dikes surrounding the tanks held back the spilled fuel, Orfield said. No one had to be evacuated.

The fire burned for more than 30 minutes and knocked out power to 500 homes and 20 businesses

SENATE HIGHWAYS

EXHIBIT NO. 2

DATE 3-21-91

BILL NO. HB 133

3-21-1991

JOSEPH W. KUGLIN
OPERATION LIFESAVER
AREA COORDINATOR
GREAT FALLS, MT.

MR. CHAIRMAN

MEMBERS OF THE COMMITTEE:

MY NAME IS JOSEPH KUGLIN, AND I AM A LOCOMOTIVE ENGINEER AND A MEMBER OF OPERATION LIFESAVER. I AM THE AREA COORDINATOR OF GREAT FALLS AND WORK CLOSELY WITH MANY PROFESSIONAL DRIVERS. ONE OUTSTANDING PROBLEM I HAVE ENCOUNTERED IN THIS CAPACITY IS THAT THE LAWS GOVERNING OUR RAILROAD CROSSINGS ARE VERY UNCLEAR AS TO WHAT PROFESSIONAL DRIVERS MUST COMPLY WITH. IN PARTICULAR OUR SCHOOL BUS DRIVERS. MANY OF OUR STATE AGENCIES WERE UNCLEAR THEMSELVES, RESULTING IN VARIOUS DANGEROUS AND HAZARDOUS SITUATIONS. THESE DRIVERS WANT A CLEAR AND DECISIVE LAW FOR THEY FEEL THAT THEY ARE CARRYING OUR MOST PRECIOUS POSSESSIONS "OUR CHILDREN".

AS A LOCOMOTIVE ENGINEER, I NEED NOT REMIND YOU OF HOW DANGEROUS WE ARE WHEN IT IS UNEVENTFUL, KNOWING THAT YOU ARE GOING TO CRASH INTO A SCHOOL BUS OR AUTOMOBILE. MANY LOVED ONES ARE KILLED OR VERY SERIOUSLY INJURED BECAUSE OF THE VAGUENESS OF OUR PRESENT LAWS.

AS A DRIVER, I MUST STATE WE DO NEED MORE CLARITY REGARDING OUR LAWS CONCERNING RAILROAD CROSSINGS. THIS BILL GIVES THE DRIVERS OF MONTANA THE OPPORTUNITY TO START TO UPGRADE THE LAW AND CLEARLY SPELL OUT WHAT IS INTENDED. SAFETY IS THE WISHEST OF ALL OUR MONTANA CITIZENS. NOT JUST A CONVENIENCE FOR A FEW.

THANK YOU

Joseph W. Kuglin
JOSEPH W. KUGLIN

Ex. 3
3-21-91
HB 133

MR CHAIRMAN, MEMEBERS OF THE COMMITTEE, I am Donna Hall of Hall Transit Co. We own and operate the school buses in Helena and Great Falls. Thank you for your time.

I am here today in support of House Bill 133.

As a school bus contractor, we feel very strongly that the law should be clearly defined concerning the stopping of all school buses at all RR crossings, controlled or uncontrolled, whether loaded with children or not. Presently the School Districts in Helena and Great Falls are dictating to us that we must stop. The law, however, is very unclear on this resulting in confusion among our drivers. Every bus driver should know exactly what is expected of him or her.

Our involvement with "Operation Lifesaver" was the coordination and donation of the school bus used in the train-bus crash demonstration conducted in Great Falls on April 24, 1990. We required that all our drivers attend and I know from talking with them that their reaction was the same as mine. Even though we knew that there were only crash dummies aboard the bus, the moment of impact was the most frightening thing we've ever experienced. It proved to us all one important fact "Trains can't Stop" and it was nearly 500 feet before it did. What a horrible thought that it could have been loaded with children!

I feel that the importance of school buses stopping, looking and listening at every crossing can't be stressed enough. In regard for the safety of other drivers, the use of warning lights to signal that the bus is going to stop and the display of "this bus stops at all RR crossings" on the rear of the bus, would greatly reduce the rear-end accidents we experience every year. These precautions are not required at this time.

In conclusion, I would like to see the law defined to give the drivers clear understanding of their responsibility, which is the safe transportation of Montanas most precious cargo, our children.

Thank you.

3/20/91
Donna I. Hall
Hall Transit Co., Inc.

"presented in my absence by Joe Kuehn"

Ex. I

3-21-91

HB 133

HOUSE BILL 133
TESTIMONY

Before the Senate Committee on Highways and Transportation
by Ron Wenger, Transit Manager, City of Billings,
President, Montana Transit Association

House Bill 133, in its current form, will have serious negative impact on our City's MET Transit System. Fourteen (14) of our seventeen (17) routes currently cross railroad tracks. Indeed, one route crosses eight individual tracks, six of which receive very little usage. To require this bus to stop eight individual times will, in all likelihood, require us to shorten the route; thus, reducing service to the area. Other routes may also need to be shortened, thereby lowering service levels throughout the City.

I am unaware of any accident data that would suggest there is a particular accident problem which would warrant requiring our buses to stop at crossings within the Billings urban area. Indeed, I can find no recorded accidents involving a bus type of vehicle in the past twenty years. In fact, I would suspect that following implementation of this bill, we would see a significant increase in rear end accidents at railroad crossings. In particular, there are areas of 35 m.p.h. speed limits where tracks exist which are used very slightly, if at all, where our buses would be required to stop in the middle of a traffic lane.

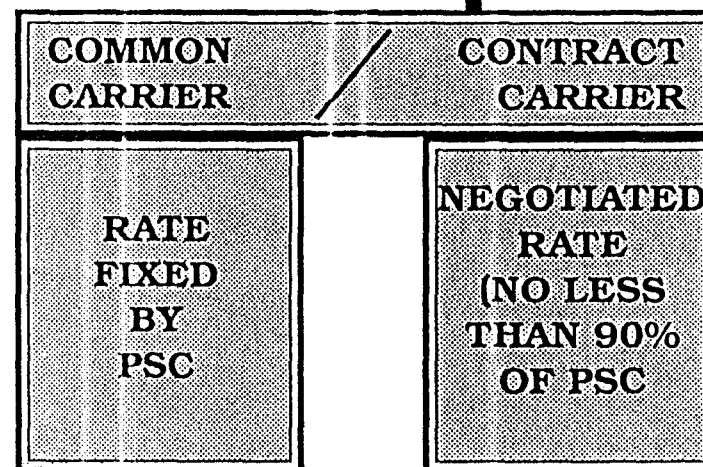
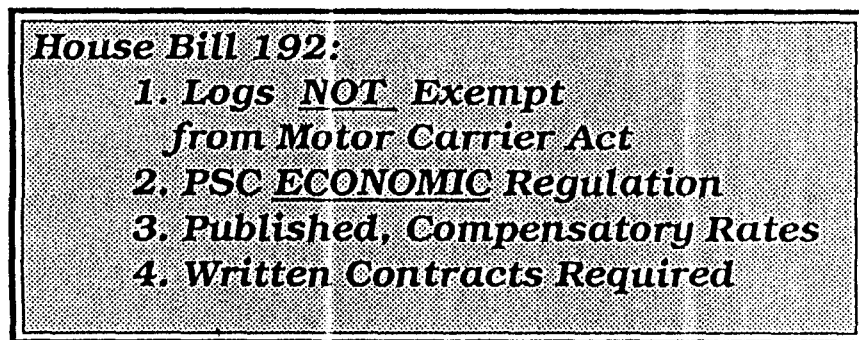
I would respectfully submit that the provision for street-railway grade crossings in business or residential districts be reintroduced for urbanized areas, or at the very least, recognize railroad grade crossing signals as adequate for traffic control in an urbanized area.

On behalf of the City of Billings' Aviation/Transit Department, Transit Division, and the Montana Transit Association, we respectfully urge your inclusion of this type of language into House Bill 133.



Current:

1. Logs exempt from Motor Carrier Act
2. Written contracts optional



DATE
BILL NO. **HB 192**
3-21-4

Date Submitted: 3/21/91
HB 192

Ben Havdahl, MMCA, Senate Highways and Transportation Committee

EXHIBIT NO. 6
DATE 3-21-91
BILL NO. HB 192

Mr. Chairman.....Members of the Committee. For the record, my name is Ben Havdahl, Executive Vice President of Montana Motor Carriers Association.

MMCA supports the passage of HB 192, a bill to include the "for-hire" transportation of logs within Montana as a regulated commodity under the Motor Carrier Act. The bill will simply add logs to the more than hundreds of commodities that are all ready regulated under the act in Montana. A partial listing of the commodities is attached for the information of the committee.

MMCA and the Montana Log Truckers Association merged organizations last year and currently there are 188 members in the MMCA Log Truckers Conference. The conference is seeking this legislation. MMCA Board adopted a position for full support of this effort.

Economic regulation has been an integral part of this State's transportation policy for the past 60 years. Controls on motor carrier entry and rates, coupled with limited antitrust immunity for collective rate-making, have provided fairness to the shipping public.

Further it has resulted in a safe and reliable trucking service and a complete transportation network available even to the most remote shipper. Under regulatory controls, the trucking industry in Montana has grown to become a major mode of Montana freight transport.

The role of state government, through the Public Service Commission, has been to regulate freight common carriage to ensure that adequate service is available for all those who need it, at reasonable rates and on a nondiscriminatory basis. Montana like some 35 other states, adopted laws in the early 1930s regulating entry, rates charged and the financial arrangements of carriers.

Economic regulation encourages efficient collective rate making. Calculating the appropriate rate for each shipment is a big task, involving many possible pairs of origin and destination points, types of shippers and types of commodities. Collective rate making has enabled carriers to efficiently meet this task under antitrust immunity. Carriers can also file individual rates. Shippers have input relating to rate proposals through public hearings and comment.

Economic regulation enhances highway safety. There is a direct relationship between economic regulation and safe equipment.

Experience with limited deregulation has shown that when carriers are forced to engage in a fierce struggle for traffic, they cut costs in those areas most related to safety.

Finally it preserves well-established shipper liability protections. Carriers are required to maintain a minimum amount of liability insurance set by regulation at \$500,000 and have in force a \$10,000 cargo insurance policy.

Why regulate logs in Montana? You have heard and will hear more about why. I would like to give you just a few reasons to pass HB 192.

House Bill 192 establishes a special class, Class E, of carriers, to transport logs intrastate under the motor carrier act as a regulated commodity. It provides for the establishment of compensatory rates for common carriage to be established, either as an individual carrier or as a group with immunity from anti trust laws.

House Bill 192 would require that contracts be in writing for transportation of logs by truck.

14 states regulate log hauling by motor carriers from the forest to the mill and/or from storage to the mill. (Included are: Connecticut; Kansas; Massachusetts; Michigan; Minnesota; Nevada; New Mexico; Ohio; Oregon; Pennsylvania; Texas; Utah; Washington; and West Virginia.)

16 states regulate wood chip hauling by motor carriers from the forest or mill to paper plants including Montana. (All of the above states except Michigan, Minnesota, and New Mexico. In addition, Montana, Idaho, New York, and North Carolina) Montana regulates woodchips, why not logs.

There are those carriers, when considering to haul regulated products, that fear they will fall into a regulatory abyss from which there is no escape. Such is not the case. Certain rules must be followed and reports rendered, but the requirements are no more than those required by any carrier's accountant for good business management and preparation of tax returns.

The initial consideration is the "construction" of a proposed tariff to be filed with PSC. A tariff is nothing more than a price list or a rate list for services to be rendered. Rates can be as simple as reading a menu. Rates are the costs to the shipper for hauling the product. Rates can be based on miles, weight, point-to-point, or any other method the carrier or group of carriers may deem appropriate. In the case of log hauling different road surfaces are taken into account.

Rates are determined in such a way, that any shipper can look at a tariff and determine the exact amount he will be charged for the services performed, prior to the movement of the product.

The determination of what makes an adequate or reasonable line haul rate is composed of basically two major factors: one the economic where by carriers must decide at what level they need to operate, to pay their bills and realize a reasonable profit.

The second factor is the marketplace or the shipper. Rates must be attractive to the shipper or a shipper will simply take other alternatives such as using his own trucks.

Carrier's economic data is assembled to determine costs and rates, including: revenue and operating expenses. Collectively or individually this data is assessed and included in the base used to determine a fair and reasonable rate.

MMCA now provides tariff service to some 135 livestock carriers who are members of a collective livestock tariff. I have provided for the committee's information a copy of that tariff's rules, two pages of rate sheets, and a Memorandum explaining the details of how a tariff is generally established.

Ex. 6
3-21-91
HB 192

Page 3

Livestock carriers sought and were granted economic regulation by the 1971 Legislature. Their system has been working to the satisfaction of carriers and shippers for 20 years. The structure of a collective tariff for log haulers will be similar but with particular modifications appropriate to that industry.

Rate determination is not a mysterious process. It is a process that is open and fair to all concerned both carriers and shippers. The process insures a transportation system that is stable and dependable. It is not perfect. Livestock haulers can attest to that fact as can others. However livestock haulers and other carriers are still operating effectively under the regulated system after many, many years.

Thank you.

PARTIAL LISTING OF COMMODITIES TRANSPORTED BY MOTOR CARRIAGE
WITHIN MONTANA UNDER INTRASTATE COMMERCE REGULATION

Forest Products -Bark-Sawdust-Wood Chips -Mill to Paper Plant-Forest to Paper Plant
Lumber and Wood Products-Finished lumber-Plywood-Partical board
Fencing Roofing Shingles-Poles and Posts
Building materials - Blocks, Bricks-Dry wall-Roofing metal,composition
Buildings
Fresh fish & othe marine products
Metalic ores
Coal- Crude Petroleum,Natural Gas
Nonmetalic minerals
Ordnance & accessories
Food & kindred products
Tobbaco products
Textile mill products
Apparel & other finished textile&knit
Furniture & fixtures
Pulp, paper & allied products
Chemicals & allied products
Petroleum & Coal products
Asphalt-Coke
Rubber & misc. plastic products
Leather & leather products
Stone, clay, glass & concrete products
Primary metal products
Fabricated metal products
Machinery -Electrical machinery equipment
Transportation equipment
Instruments,photo&optical
Waste and scrap metal
Dry bulk cement
Bulk fertilizer
Livestock-Cattle-Sheep-Horses
Processed cattle feed
Hides
Automobiles -light vehicles- Automotive parts-batteries
Farm machinery
Floor covering
Household goods
Solid waste - ashes
Beverages-Liquors
Meal
Meat
Dairy products
Paints
Pipe
Food products-canned-frozenAnd many others



EX. 6
3-21-91
HB 192

B.G. HAVDAHL, EXECUTIVE VICE PRESIDENT
501 NORTH SANDERS
P.O. BOX 1714, HELENA, MONTANA 59624
TELEPHONE: AREA CODE 406 442-6600

March 21, 1991

MEMORANDUM TO: MONTANA SENATE COMMITTEE ON HIGHWAYS AND
TRANSPORTATION

REGARDING: How Carriers, Individually or Collectively, Establish a Tariff
for Transporting Commodities Within Montana.

The Legislature established the Montana Public Service Commission as the State agency responsible for regulating transportation in the Montana and PSC is the appropriate agency for approving tariffs.

The initial consideration in rate establishment is the "construction" of a proposed tariff to be filed with PSC. A tariff is nothing more than a price list or a rate list for services to be rendered and can be as simple as reading a menu. Rates are the costs to the shipper for hauling the product. Rates can be based on miles, weight, point-to-point, or any other appropriate method.

Rates are determined in such a way, that any shipper can look at a tariff and determine the exact amount he will be charged for the services performed, prior to the movement of the product.

The determination of what makes an adequate or reasonable line haul rate is composed of basically two major factors, the economic factor and the market factor. Considering the economic factor, carriers must decide at what level they need to operate, to pay their bills and realize a reasonable profit.

The second factor in constructing a rate is the marketplace or the shipper. A rate must be attractive to the shipper or he will take other alternatives such as using his own trucks.

Carrier's economic data is assembled to determine costs and rates, including: revenue; and expenses such as labor, fringe benefits, operating supplies, fuel and parts, fuel taxes, property taxes, GVW fees, workers compensation premiums, insurance, depreciation, purchased transportation, rent and others. Collectively or individually this data is assessed and included in the base used to determine a fair and reasonable rate. A profit factor is also included.

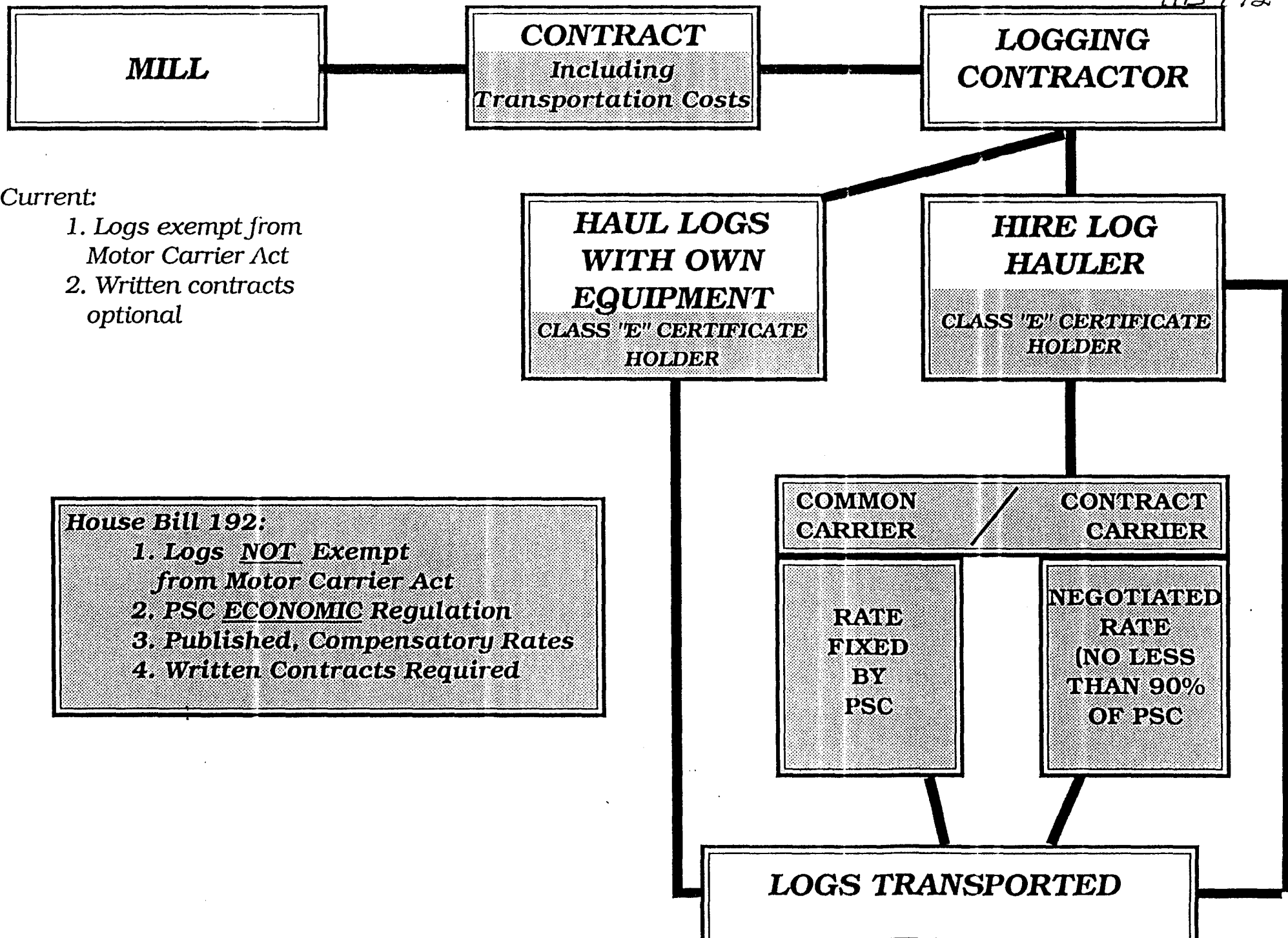
Under the PSC system for rate establishment, once an initial tariff is filed and approved by the PSC, the rates and charges are effective. Routinely a hearing is not held on the initial establishment of rates. The PSC may, however, investigate and conduct a hearing on initial rate filings. Any changes in rate levels or charges in the tariff may be challenged at public hearings.

Collective tariffs operate under approved rules and regulations and the PSC has to approve these rules and other information connected with an initially filed tariff and any changes to those rules after the tariff becomes effective.

TEN REASONS TO SUPPORT HB 192--- ECONOMIC REGULATION OF INTRASTATE MOTOR CARRIAGE OF LOGS IN MONTANA.

- (1) The mills made a commitment to the 1989 Legislature to meet with *log truckers* to help resolve their problems relating to transportation. NO SUCH EFFORT WAS EVER MADE. HB 192 passed the House 60-40.
- (2) Log Contractors who own trucks and log truckers with mill contracts oppose HB 192 because they do not want competition from small owner operators with no hauling contract. Passage of HB 192 is vital to small truckers competing with larger log truckers and mills.
- (3) Log truckers trying to provide transportation services, find at times, the rates paid to them to be unfair, inconsistent, arbitrary and sub-standard for the service. Current arrangements are on a take-or-leave-it basis.
- (4) HB 192 amends the Motor Carrier Act to include logs as a regulated commodity, allowing *compensatory rates* to be established, either as an individual carrier or as a group and grants immunity from anti-trust prosecution.
- (5) House bill 192 establishes a special class of carriers, Class E, to transport logs in the state either under a written contract or as a common carrier.
- (6) House Bill 192 would require written contracts as one option for transportation of logs by truck and contract rates may also be established and filed with PSC. (Although current logging industry practices include written contracts between mills and log contractors including costs for cutting and transporting logs plus a profit, generally no such written contract is in effect between the log contractor who is the shipper of the logs and the log trucker.)
- (7) House Bill 192 would require that rates for logs transported under "common carriage", as an alternative option, be compensatory and approved by the PSC.
- (8) Under HB 192, rates are to be established with PSC approval by log carriers individually or collectively and must be fair and based on the cost of the service. Shippers would have input to PSC for or against rate levels and establishment.
- (9) The Motor Carrier Act has been in effect in Montana for 60 years to insure fair rates and a transportation system for hundreds of commodities transported within Montana either under written contract or by common carriage.
- (10) 14 States regulate log hauling by motor carriers from forest to mill and/or storage to mill. Montana and 15 States regulate wood chip hauling. Why not logs?

Ex. 6
3-21-91
HB 192



Log hauler bill: A fair shake-out?

By Will Getelman
University of Montana student
for the Tobacco Valley News

Sawmill owners, log haulers, logging contractors -- each group has its reasons for tracking progress of a bill in the Montana Legislature that would give the state Public Service Commission power to set pay rates for log haulers.

House Bill 192, sponsored by Rep. Dave Wanzenried, D-Kalispell, would also entitle log haulers to a written contract with logging contractors. The haulers presently operate by verbal contract, and some claim the rates haven't changed in

years. They say they can't meet expenses, and have nowhere but the Legislature to turn for relief.

"We have not only not gotten a raise in 16 years, but lost money," said Suellen Brady, co-owner of Brady Trucking Company in Whitefish. Her husband, Sam, hauls logs. Brady submitted written testimony in favor of the bill to the House Highways and Transportation Committee. The committee has since passed the bill to the full House, which sent it to the Senate by a 60 to 40 vote.

If logging contractors have to pay more for gas or equipment, they negotiate the increases with the mill,

Brady says, but rates for haulers stay the same "no matter what."

Wanzenried said part of the problem for the haulers is that they are not privy to the details of the contract drawn up between sawmills and logging contractors. The contract includes transportation costs.

He said under his bill, the PSC would analyze the contract and set a fair rate of pay for log haulers. Truckers could simply look in the PSC rate book to determine the current pay scale for them. They'd then have two options, Wanzenried said. They could haul as "common carriers" at the fixed PSC rate, or as "contract carriers" at a negotiated rate

of not less than 90 percent of the PSC rate.

Haulers working now would receive the PSC "Class E" certification to haul, as would logging contractors who now own their own trucks. Those entering the business later would have to petition the PSC for certification.

Not everyone is happy with the bill. Sherm Anderson, who owns Sun Mountain Logging Co. in Deer Lodge, opposes it. Anderson owns 14 trucks.

"I'm not only a logging contractor, but a hauler, so I negotiate the haul rates with the
See Hauler, Page 12

Hauler

Continued from Page 1

sawmills," Anderson said.

The size of his operation gives him an edge in underbidding other haulers, an edge he's not eager to lose, he said.

Haulers who are not logging contractors, thus not entitled to a contract with the mill, fear being squeezed out of business by firms such as Sherm Anderson's.

But Anderson said they are more likely to be squeezed out by the proposed bill. He said if this bill becomes law, mill owners will choose two or three shippers whose size enables them to prosper at 90 percent of PSC scale, forcing small local haulers out of work.

Large-scale operations could get around the bill by leasing their trucks to the mill, Anderson added. If the mill is using its own leased trucks, it is outside PSC jurisdiction and not subject to the 90 percent minimum haul rates. Or, he said, if the PSC rate makes hauling too profitable, "you can bet that the loggers themselves are going to have their own trucks."

"There's no need to hire somebody to do it if there's a lot of money in it," he says.

Brent Anderson, a logging contractor from Lincoln, owns no trucks. He hires haulers to freight logs to the mill. Be he said if the bill becomes law, he will buy a truck to get PSC certification, if for no other reason. Certification would be harder to get later, Anderson said.

"I'd have to go in and prove to the commission that it was needed in my area and wasn't being taken care of," he said of the PSC certification process.

By buying a truck, Anderson said he could haul his own logs as a private carrier outside PSC jurisdiction, and thus cash in on the newly increased hauling profits. He said he agrees with Sherm Anderson that under the new bill, mills would, for simplicity's sake by avoiding paperwork, do business with only two or three large-scale haulers. The small operator would be forced out, he said.

But Brady says small haulers are being forced out of business anyway, and must take a chance with government regulations.

"Somebody's got to give us a voice," she said.

Brady said this bill was introduced into the 1989 Legislature, and Highway and Transportation Committee Chairman Barry Stang, D-St. Regis, said "he didn't see a need for rules and regulations to work the matter out." Brady said Don Allen, president of the Montana Wood Products Association, which represents the mill owners, offered to "sit down as gentlemen to work out differences." But these talks were unproductive, leaving log haulers no recourse but to return to the Legislature.

Allen said mill owners aren't involved in this year's controversy, though they oppose Wanzenried's bill. Allen said the controversy is "truckers versus truckers."

On the other hand, Allen said he doesn't think the PSC "is in any better position to set rates than can be set in the free-market system."

But Brady said logging contractors have been "purposely put in the middle between us and the mills."

Wanzenried agrees, saying the mills set rates so low that logging contractors must pass the loss on to the haulers, or haul themselves for a rate so low the haulers can't compete.

"Don't kid yourself for a moment," Wanzenried cautioned. "The mills have taken advantage of this because when they bid those jobs, they include transportation costs in those bids. They know informally how much they pay, and it's well below what a fair rate would be."

Wanzenried said as the bill is debated in the Legislature, "the Wood Products Association is going to be right in the middle of it, guarantee you -- I know."

Wanzenried said the bill is strictly an economic regulation. Regulations concerning hours drive and safety factors are not part of it. There is some added paperwork for the haulers, he said, but "no more than a good businessman is already doing."

If mills and logging contractors are in dire financial straits Wanzenried said, it is because of "soft" market and a lack of trees. They won't go broke by paying haulers what they're worth, he said. "I just want to make sure th

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HB 192

MONT. P.S.C. NO. 5
CANCELS
MONT. P.S.C. NO. 4

ORIGINAL TITLE PAGE

MONTANA LIVESTOCK TARIFF BUREAU,
AGENT

LIVESTOCK TARIFF NO. 3
(CANCELS LIVESTOCK TARIFF No. 1-B).
SEE LIVESTOCK TARIFF NO. 2 FOR PARTICIPATING CARRIERS

NAMING
INTRASTATE
MILEAGE COMMODITY RATES
AND MILEAGE VOLUME TENDER RATES

- AND -

RULES AND REGULATIONS

BETWEEN POINTS IN	AND POINTS IN
MONTANA	MONTANA

THIS TARIFF APPLIES ONLY ON MONTANA INTRASTATE TRAFFIC

ISSUED:

EFFECTIVE:

ISSUED BY:
B. G. HAVDAHL - GENERAL MANAGER
501 NORTH SANDERS AVE.
HELENA, MT 59601

MONTANA LIVESTOCK TARIFF BUREAU, AGENT
LIVESTOCK TARIFF NO. 3

SECTION 2

APPLICATION OF RATES

RULES AND REGULATIONS

FOR EXPLANATION OF ABBREVIATIONS OR REFERENCE MARKS NOT EXPLAINED ON THIS PAGE, SEE CONCLUDING PAGE OF TARIFF.

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HB 192

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CANCELS
MONT. P.S.C. NO. 3 & 4

ORIGINAL PAGE 13

MONTANA LIVESTOCK TARIFF BUREAU, AGENT
LIVESTOCK TARIFF NO. 3

SECTION 2
APPLICATION OF RATES

RULES AND REGULATIONS	ITEM
<u>APPLICATION OF RATES - GENERAL:</u> PARTICIPATING CARRIERS ARE REQUIRED BY STATUTE TO CHARGE NEITHER MORE NOR LESS THAN THE APPLICABLE RATE AND/OR CHARGE PUBLISHED HEREIN. EXCEPT AS OTHERWISE MORE SPECIFICALLY PROVIDED: THE RATES AND CHARGES IN THIS TARIFF APPLY TO MONTANA INTRASTATE SHIPMENTS OF LIVESTOCK AND INCLUDE THE SERVICES OF A UNIT OF EQUIPMENT AND DRIVER; AND ALL LIVESTOCK MOVEMENTS WILL BE BASED ON A HUNDREDWEIGHT RATE WHENEVER WEIGHING FACILITIES ARE AVAILABLE. THE CARRIER SHALL USE THE APPLICABLE HUNDREDWEIGHT RATE FOR LENGTH OF UNIT AND APPLY TO THE ACTUAL WEIGHT TRANSPORTED TO DETERMINE CHARGES FOR THE SHIPMENTS. FOR SHIPMENTS THAT CANNOT BE WEIGHED (SEE ITEM 190) THE CARRIER SHALL USE THE MILEAGE CHARGE FOR LENGTH OF UNIT ORDERED OR REQUIRED, WHICHEVER IS LARGER, TO DETERMINE CHARGES FOR THE SHIPMENT.	100
<u>APPLICATION OF RATES FOR SHIPMENTS OF SHEEP, GOATS, AND HORSES:</u> TRANSPORTATION CHARGES ON SHIPMENTS OF SHEEP, GOATS, AND HORSES, AS DESCRIBED IN ITEM 170, SHALL BE 110% OF THE APPLICABLE RATE IN SECTION 3 OR 4 HEREIN.	110

Issued on ten days notice under authority of docket no. T-5104 and order no. 3019 of the Public Service Commission of the State of Montana, dated November 7, 1980.

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ISSUED BY: B.G. HAVDAHL, General Manager

P.O. Box 1714

Helena, Montana 59624

MONTANA LIVESTOCK TARIFF BUREAU, AGENT
 LIVESTOCK TARIFF NO. 3
 SECTION 2

APPLICATION OF RATES
 RULES AND REGULATIONS

Item

ALTERNATING RATES - MINIMUM LENGTH:

WHEN WEIGHT OF SHIPMENT IS AVAILABLE, APPLY THE HUNDREDWEIGHT RATE APPLICABLE FOR LENGTH OF UNIT IN SECTION 3 TO THE ACTUAL WEIGHT OF THE SHIPMENT TO DETERMINE CHARGES. IN NO CASE SHALL THE CHARGE FOR ANY SHIPMENT EXCEED THE MINIMUM CHARGE APPLICABLE TO THE NEXT HIGHER LENGTH OF UNIT FOR THE SAME MILEAGE.

130

BILL OF LADING AND FREIGHT BILL:

EXCEPT AS OTHERWISE MORE SPECIFICALLY PROVIDED,

A BILL OF LADING AND A FREIGHT BILL SHALL BE ISSUED FOR EACH SHIPMENT AND CARRIED IN THE VEHICLE DURING MOVEMENT OF THE SHIPMENT.

THE BILL OF LADING AND FREIGHT BILL SHALL BE ISSUED IN TRIPPLICATE AND CONSIST OF (1) AN ORIGINAL, (2) A SHIPPING ORDER COPY, AND (3) A MEMORANDUM COPY. EACH MUST BE NOTED SHOWING WHICH OF THE THREE IT IS. THE SHIPPING ORDER COPY MUST BE RETAINED BY THE CARRIER FOR PURPOSES OF INSPECTION BY THE MONTANA P.S.C.

EACH BILL OF LADING AND FREIGHT BILL SHALL BE CHECKED FOR ERROR. CORRECTION AND ADJUSTMENT WITH THE SHIPPER MUST BE MADE PRIOR TO BECOMING A PERMANENT RECORD OF THE CARRIER.

140

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MONT. P.S.C. NO. 3 & 4MONTANA LIVESTOCK TARIFF BUREAU, AGENT
LIVESTOCK TARIFF NO. 3SECTION 2
APPLICATION OF RATE

RULES AND REGULATIONS

ITEM

CHARGE FOR EQUIPMENT ORDERED AND NOT USED:

IF ORAL, TELEPHONIC, TELEGRAPHIC, OR WRITTEN REQUEST IS MADE BY A SHIPPER TO A CARRIER FOR THE TRANSPORTATION OF LIVESTOCK, AND THE CARRIER COMPLIES BY FURNISHING EQUIPMENT TO SHIPPER AT DESIGNATED ORIGIN OF SHIPMENT, AND REQUESTED TRANSPORTATION OF THE LIVESTOCK AT THE TIME SET BY THE SHIPPER IS REFUSED, WHICH REFUSAL NECESSITATES THE CARRIERS RETURN EMPTY, THE SHIPPER, REFUSING TRANSPORTATION, SHALL PAY THE CARRIER A CHARGE OF:

- A.) ONE CENT () PER FOOT OF UNIT LOADING LENGTH PER MILE ON ALL UNITS REQUESTED FOR THE TRANSPORTATION OF LIVESTOCK EXCEPT SHEEP, GOATS AND HORSES: OR
B.) ONE-HALF CENT (1/2) PER FOOT OF UNIT LOADING LENGTH PER MILE ON ALL UNITS REQUESTED FOR THE TRANSPORTATION OF SHEEP, GOATS AND HORSES.

THE MILEAGE TO BE USED TO DETERMINE CHARGES UNDER THIS ITEM SHALL BE CALCULATED FROM THE POINT WHICH EQUIPMENT WAS DISPATCHED TO THE SHIPPERS DESIGNATED ORIGIN OF SHIPMENT PLUS THE DISTANCE FROM THE DESIGNATED POINT OF ORIGIN TO THE CARRIER'S NEAREST TERMINAL.

TERMINATION OF REQUEST FOR EQUIPMENT AND CONTRACT BY THE SHIPPER SHALL NOT BE DEEMED TO HAVE BEEN PERFORMED IF SENT IN WRITING BY U. S. MAIL LESS THAN THREE (3) DAYS PRIOR TO THE AGREED SHIPMENT DATE. IN CASE OF DISPUTE, THE POSTMARK STAMPED ON THE ENVELOPE SHALL DETERMINE THE DATE WRITTEN TERMINATION OF THE CONTRACT WAS MAILED.

150

COMMODITY DESCRIPTION

EXCEPT AS OTHERWISE MORE SPECIFICALLY PROVIDED, THE DISTANCE COMMODITY RATES NAMED IN SECTION 3, AND THE DISTANCE OR MILEAGE VOLUME TENDER RATES NAMED IN SECTION 4, APPLY TO SHIPMENTS OF THE FOLLOWING:

- A.) CATTLE — INCLUDING BULLS, CALVES, COWS, OXEN, STEERS AND YEARLINGS, AND
B.) SWINE — INCLUDING BOARS, PIGS AND SOWS.

160

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SECTION 2

APPLICATION OF RATES

(ITEM CONCLUDED ON FOLLOWING PAGE)

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CANCELS

MONT. P.S.C. NO. 3 & 4

MONTANA LIVESTOCK TARIFF BUREAU, AGENT
LIVESTOCK TARIFF NO. 3

SECTION 2
APPLICATION OF RATES

RULES AND REGULATIONS	ITEM
<u>DETERMINATION OF WEIGHTS: (CONCLUDED)</u> B.) CARRIER IS NOT REQUIRED TO OBTAIN A PUBLIC WEIGHMASTER'S CERTIFICATE WHEN: 1.) A SHIPMENT CONSISTS OF TEN (10) HEAD OF LIVESTOCK OR LESS, OR 2.) WHEN NO PUBLIC WEIGHMASTER'S SCALE OR SCALES ALONG THE ROUTE OF MOVEMENT IS OPEN FOR WEIGHING AT THE TIME THE CARRIER ARRIVES AT THE SCALE POINT OR POINTS: OR 3.) WHEN THE WEIGHING OF A SHIPMENT ON A PUBLIC WEIGHMASTER'S SCALE SHALL REQUIRE THE CARRIER TO TRAVERSE A ROUTE WHICH IS MORE THAN FIVE (5) MILES LONGER THAN THE SHORTEST DISTANCE BETWEEN POINTS OF ORIGIN AND DESTINATION: OR; 4.) WHEN BILL OF LADING IS MARKED OR STAMPED AND SIGNED BY SHIPPER: "CARRIER AUTHORIZED TO BILL AT THE MILEAGE MINIMUM CHARGE FOR A _____ FOOT TRAILER. SHIPPER'S SIGNATURE _____	190 (CON- CLU- DED)
<u>DISTANCES, METHOD OF DETERMINING:</u> RATES AND CHARGES NAMED IN THIS TARIFF SHALL BE COMPUTED FROM THE MILEAGE TABLE ON THE CURRENTLY EFFECTIVE OFFICIAL HIGHWAY MAP ISSUED BY MONTANA STATE HIGHWAY COMMISSION. FOR DISTANCES FROM OR TO POINTS NOT SHOWN ON THE CURRENTLY EFFECTIVE OFFICIAL HIGHWAY MAP, THE ACTUAL SPEEDOMETER MILEAGE VIA THE SHORTEST PRACTICABLE ROUTE SHALL BE USED TO DETERMINE CHARGES. IN COMPUTING MILEAGES, THE FOLLOWING SHALL GOVERN IN THE DISPOSITION OF FRACTIONS: A.) FRACTIONS OF LESS THAN ONE-HALF (1/2) MILE - OMIT: OR B.) FRACTIONS OF ONE-HALF (1/2) MILE OR GREATER — INCREASE TO THE NEXT WHOLE MILE. <u>EXCEPTION:</u> WHEN, AT THE REQUEST OF SHIPPER, A LONGER ROUTE THAN THE SHORTEST AVAILABLE REGULARLY TRAVELED ROUTE IS PROVIDED, THE MILEAGE VIA ROUTE OF MOVEMENT SHALL BE USED TO DETERMINE CHARGE.	200
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MONTANA LIVESTOCK TARIFF BUREAU, AGENT
LIVESTOCK TARIFF NO. 3

SECTION 2
APPLICATION OF RATES

RULES AND REGULATIONS	ITEM
<u>EQUIPMENT ORDERED AND FURNISHED:</u> RATES NAMED IN THIS TARIFF ARE APPLICABLE FOR SPECIFIC UNIT LENGTHS AND WEIGHTS. SHIPPERS MUST SPECIFY LENGTH OF UNIT REQUIRED AND THIS SHALL BE SHOWN ON THE BILL OF LADING AND FREIGHT BILL, AND SHIPMENT CHARGES SHALL BE ASSESSED ON THAT BASIS. IF SHIPPER ORDERS A SPECIFIC LENGTH UNIT AND THE CARRIER IS UNABLE TO FURNISH BUT PROVIDES ONE OF LARGER DIMENSIONS IN LENGTH, CHARGES SHALL BE ASSESSED ON LENGTH OF UNIT ORDERED OR REQUIRED, WHICHEVER IS GREATER.	210
<u>IMPRACTICABLE OPERATIONS:</u> NO PROVISIONS OF THIS TARIFF SHALL BE CONSTRUED AS MAKING IT BINDING ON A CARRIER TO PICK-UP AND/OR DELIVER FREIGHT AT LOCATIONS FROM AND/OR TO WHICH IT IS IMPRACTICABLE TO OPERATE EQUIPMENT ON ACCOUNT OF THE CONDITION OF HIGHWAYS, ROADS, STREETS, OR ALLEYS, OR BECAUSE OF EXTREME WEATHER, RIOTS OR STRIKES.	220
<u>LIABILITY OF CARRIER:</u> CARRIERS OF LIVESTOCK ARE LIABLE FOR LOSS AND/OR DAMAGE AS PROVIDED BY STATUTE. THE AMOUNT OF LIABILITY SHALL BE DETERMINED AS FOLLOWS: A.) ORDINARY LIVESTOCK. RATES IN SECTIONS 3 AND 4 HEREIN APPLY TO SHIPMENTS OF ORDINARY LIVESTOCK. CARRIER'S LIABILITY IS ACTUAL LOSS AND/OR DAMAGE, SUBJECT TO THE LIMITATION OF MARKET VALUE AT POINT OF DESTINATION ON DATE OF SHIPMENT. B.) OTHER THAN ORDINARY LIVESTOCK. EXCEPT AS MORE SPECIFICALLY PROVIDED BELOW, CARRIER'S LIABILITY FOR LOSS AND/OR DAMAGE TO SHIPMENTS OF OTHER THAN ORDINARY LIVESTOCK IS ACTUAL LOSS AND/OR DAMAGE, SUBJECT TO THE LIMITATION OF MARKET VALUE AT POINT OF DESTINATION ON DATE OF SHIPMENT: AND C.) UPON DECLARATION IN WRITING BY THE SHIPPER OF A RELEASED VALUE FOR OTHER THAN ORDINARY LIVESTOCK, AND ON SUCH SHIPMENTS ADDITIONAL CHARGES SHALL BE ASSESSED, CARRIER'S LIABILITY SHALL BE ACTUAL LOSS AND/OR DAMAGE, SUBJECT TO A LIMITATION NOT GREATER THAN THE RELEASED VALUE DECLARED BY THE SHIPPER: 1.) IF DECLARED RELEASED VALUE IS FIFTY (50) CENTS BUT NOT MORE THAN ONE DOLLAR (\$1.00) PER POUND PER ANIMAL, TRANSPORTATION CHARGES SHALL BE 125% OF THE APPLICABLE RATE IN SECTION 3 OR 4 HEREIN, OR 2.) IF DECLARED RELEASED VALUE IS MORE THAN ONE DOLLAR (\$1.00) BUT NOT MORE THAN FIVE DOLLARS (\$5.00) PER POUND PER ANIMAL, TRANSPORTATION CHARGES SHALL BE 150% OF THE APPLICABLE RATE IN SECTION 3 OR 4 HEREIN. INSURANCE FOR LOSS AND/OR DAMAGE IN EXCESS OF THE LIMITATIONS SET FORTH ABOVE IS THE RESPONSIBILITY OF THE SHIPPER AT HIS EXPENSE. NOTE: OTHER THAN ORDINARY LIVESTOCK IS CLASSIFIED AS FOR BREEDING, SHOW PURPOSES, OR OTHER SPECIAL USES.	230

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CANCELS
MONT. P.S.C. NO. 3 & 4

MONTANA LIVESTOCK TARIFF BUREAU, AGENT
LIVESTOCK TARIFF NO. 3

SECTION 2
APPLICATION OF RATES

RULES AND REGULATIONS	ITEM
<u>LOADING AND WEIGHT LIMITS:</u> SHIPMENTS SHALL BE LOADED AVOIDING DAMAGE TO THE ANIMALS AND VEHICLE, AND SHIPMENTS WHEN LOADED, SHALL NOT EXCEED THE MONTANA LEGAL LOAD LIMIT.	240
<u>MINIMUM CHARGE:</u> EXCEPT AS MORE SPECIFICALLY PROVIDED FOR SHIPMENTS OF LIVESTOCK MOVING ON VOLUME TENDER RATES, THE MINIMUM CHARGE FOR ANY SHIPMENT SHALL BE THE CHARGE AS SHOWN FOR 0 - 15 MILES IN SECTION 3 FOR THE LENGTH OF UNIT ORDERED OR REQUIRED, WHICHEVER IS GREATER.	250
<u>MINIMUM VEHICLE LENGTH:</u> THE MINIMUM VEHICLE LENGTH FOR DETERMINING CHARGES SHALL BE 23-24 FEET OF LOADING SPACE. THE CHARGE FOR ALL SHIPMENTS, INCLUDING LESS-THAN-TRUCKLOAD SHIPMENTS, FILLING LESS THAN 23-24 FEET OF LOADING SPACE SHALL BE DETERMINED BY APPLICATION OF THE 23-24 FOOT RATE.	260
<u>MULTIPLE CARRIER SHIPMENTS:</u> PARTICIPATING CARRIERS WILL BE AT THE DISPATCH OF THE CARRIER ORIGINATING THE MOVEMENT, OR BY THE SHIPPER,	270
<u>MIXED SHIPMENTS:</u> TWO OR MORE SHIPMENTS MAY BE CONSOLIDATED INTO ONE LOAD. TO FIGURE THE CHARGE FOR EACH INDIVIDUAL SHIPPER, TAKE THE TOTAL CHARGE OF THE LOAD, DIVIDED BY THE TOTAL NUMBER OF ANIMALS, TIMES THE NUMBER OF HEAD SHIPPED BY EACH INDIVIDUAL SHIPPER.	280 ▲
<u>NON-APPLICATION OF RATES:</u> ALL VEHICLES HAVING A LOADING SPACE OF TWENTY-TWO (22) FEET IN LENGTH, OR LESS, ARE EXEMPT FROM THE RATES PUBLISHED IN THIS TARIFF. SECTION 69-12-405(2)(6), R.C.M. 1947.	290
<u>PARTURITION</u> LIVESTOCK SUBJECT TO PARTURITION WITHIN THIRTY (30) DAYS BEFORE OR AFTER THE DATE OF SHIPMENT WILL BE ACCEPTED ONLY AT OWNER'S RISK.	300
<u>PICKUP AND DELIVERY SERVICE:</u> EXCEPT AS OTHERWISE MORE SPECIFICALLY PROVIDED, RATES PUBLISHED HEREIN INCLUDE PICK-UP SERVICE AT POINT OF ORIGIN AND DELIVERY SERVICE AT DESTINATION.	310
<u>REASONABLE DISPATCH:</u> CARRIERS WILL PROVIDE REASONABLE DISPATCH OF UNITS AT THE TIME AND DATE OF MOVEMENT AS AGREED UPON BETWEEN SHIPPER AND CARRIER.	320

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ORIGINAL PAGE 20

MONTANA LIVESTOCK TARIFF BUREAU, AGENT
LIVESTOCK TARIFF NO. 3

SECTION 2
APPLICATION OF RATES

RULES AND REGULATIONS	ITEM
<u>SHIPMENTS IN EXCESS OF 90 FEET OR 66,000 POUNDS:</u> IN THE EVENT THAT IN EXCESS OF NINETY (90) FEET OF LOADING LENGTH IS USED AND/OR IN EXCESS OF 66,000 POUNDS IS LOADED, THE HUNDREDWEIGHT RATE FOR 66,000 POUNDS SHALL BE APPLIED TO THE ACTUAL WEIGHT TRANSPORTED TO DETERMINE CHARGES FOR THE SHIPMENT. IN THE EVENT THAT IN EXCESS OF NINETY (90) FEET OF LOADING LENGTH IS USED AND THE CARRIER DOES NOT OBTAIN WEIGHTS FOR THE SHIPMENT, CHARGES SHALL BE DETERMINED AND ASSESSED BASED ON THE MILEAGE RATE FOR A NINETY (90) FOOT VEHICLE.	330
<u>STOPPING IN TRANSIT FOR PARTIAL LOADING OR UNLOADING:</u> SUBJECT TO THE PROVISIONS OF PARAGRAPHS (A), (B), (C), (D), (E) AND (F), BELOW, AND ITEM 350, SHIPMENTS MOVING ON RATES NAMED HEREIN, TENDERED ON ONE (1) BILL OF LADING OR SHIPPING ORDER FROM ONE (1) CONSIGNOR AT ONE (1) POINT OF ORIGIN AT ONE TIME CONSIGNED TO ONE (1) CONSIGNEE AT ONE (1) DESTINATION, MAY BE STOPPED IN TRANSIT AT POINTS OR PLACES AUTHORIZED IN PARAGRAPH (A) BELOW FOR THE PURPOSE OF PARTIAL LOADING OR UNLOADING: A.) STOP-OFF FOR PARTIAL LOADING OR UNLOADING WILL ONLY BE PERMITTED AT POINTS WHEN THE MILEAGE VIA THE HIGHWAY ROUTE FROM ORIGIN TO DESTINATION VIA THE STOP-OFF POINT OR POINTS DOES NOT EXCEED TEN-PERCENT (10%) MORE THAN THE SHORTEST HIGHWAY ROUTE BETWEEN ORIGIN AND DESTINATION WITHOUT STOP-OFF. ROUTES AND MILEAGES SHALL BE DETERMINED AS PROVIDED IN ITEM 200. B.) THE BILL OF LADING OR SHIPPING ORDER MUST SHOW (1) THE POINT OR POINTS AT WHICH THE SHIPMENT IS TO BE STOPPED FOR PARTIAL LOADING OR UNLOADING, (2) A COMPLETE DESCRIPTION OF THE KIND AND QUANTITY OF LIVESTOCK TO BE LOADED OR UNLOADED AT EACH POINT, AND (3) THE NAME AND ADDRESS OF PARTY FROM OR TO WHOM EACH PORTION IS TO BE PICKED-UP OR DELIVERED. IF PICK-UP OR DELIVERY IS TO BE MADE AT TWO (2) OR MORE DIFFERENT ADDRESSES OR LOCATIONS AT THE SAME POINT (CITY, TOWN, OR VILLAGE), EACH PICK-UP OR DELIVERY SHALL BE CONSIDERED A SEPARATE STOP IN THE APPLICATION OF THIS RULE. C.) THE SUBSTITUTION OF OTHER LIVESTOCK FOR THAT ORIGINALLY LOADED, OR THE EXCHANGE OF CONTENTS OF THE SHIPMENT IN ANY MANNER, IS PROHIBITED. D.) LINE-HAUL TRANSPORTATION CHARGES ON SHIPMENTS STOPPED FOR PARTIAL LOADING OR UNLOADING SHALL BE DETERMINED ON THE MINIMUM WEIGHT, OR ACTUAL WEIGHT WHEN GREATER, OF THE ENTIRE SHIPMENT AT THE RATE APPLICABLE FROM THE POINT OF ORIGIN TO THE FINAL DESTINATION VIA THE STOP-OFF POINT OR POINTS. E.) STOPPING IN TRANSIT FOR PARTIAL LOADING OR UNLOADING WILL NOT BE PERMITTED ON SHIPMENT WHEN: CONSIGNED "C.O.D.", "TO ORDER", "ORDER NOTIFY", OR TO BE DELIVERED ONLY ON SHIPPERS WRITTEN ORDER, OR WHEN ACCOMPANIED BY INSTRUCTIONS FROM THE CONSIGNOR REQUIRING THE SURRENDER OR PRESENTATION OF THE BILL OF LADING, A WRITTEN ORDER, OR ANY OTHER DOCUMENT AS A CONDITION PRECEDENT TO DELIVERY AT STOP-OFF POINT. F.) THE DRIVER OF THE VEHICLE SHALL OBTAIN, IN WRITING, A STATEMENT, SUCH AS A NOTATION ON THE BILL OF LADING OR FREIGHT BILL, OF THE QUANTITY, DESCRIPTION, AND WEIGHT, OF THE PORTION OF THE SHIPMENT LOADED OR UNLOADED AT STOP-OFF POINT OR POINTS.	340

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MONT. P.S.C. NO. 5
CANCELS
MONT. P.S.C. NO. 3 & 4

MONTANA LIVESTOCK TARIFF BUREAU, AGENT
LIVESTOCK TARIFF NO. 3

SECTION 2
APPLICATION OF RATES

RULES AND REGULATIONS	ITEM
<u>SHIPMENTS IN EXCESS OF 90 FEET OR 66,000 POUNDS:</u>	330 ▲
IN THE EVENT THAT IN EXCESS OF NINETY (90) FEET OF LOADING LENGTH IS USED AND/OR IN EXCESS OF 66,000 POUNDS IS LOADED, THE HUNDREDWEIGHT RATE FOR 66,000 POUNDS SHALL BE APPLIED TO THE ACTUAL WEIGHT TRANSPORTED TO DETERMINE CHARGES FOR THE SHIPMENT.	
IN THE EVENT THAT IN EXCESS OF NINETY (90) FEET OF LOADING LENGTH IS USED AND THE CARRIER DOES NOT OBTAIN WEIGHTS FOR THE SHIPMENT, CHARGES SHALL BE DETERMINED AND ASSESSED BASED ON THE MILEAGE RATE FOR A NINETY (90) FOOT VEHICLE.	
<u>STOPPING IN TRANSIT FOR PARTIAL LOADING OR UNLOADING:</u>	340
SUBJECT TO THE PROVISIONS OF PARAGRAPHS (A), (B), (C), (D), (E) AND (F), BELOW, AND ITEM 350, SHIPMENTS MOVING ON RATES NAMED HEREIN, TENDERED ON ONE (1) BILL OF LADING OR SHIPPING ORDER FROM ONE (1) CONSIGNOR AT ONE (1) POINT OF ORIGIN AT ONE TIME CONSIGNED TO ONE (1) CONSIGNEE AT ONE (1) DESTINATION, MAY BE STOPPED IN TRANSIT AT POINTS OR PLACES AUTHORIZED IN PARAGRAPH (A) BELOW FOR THE PURPOSE OF PARTIAL LOADING OR UNLOADING:	
A.) STOP-OFF FOR PARTIAL LOADING OR UNLOADING WILL ONLY BE PERMITTED AT POINTS WHEN THE MILEAGE VIA THE HIGHWAY ROUTE FROM ORIGIN TO DESTINATION VIA THE STOP-OFF POINT OR POINTS DOES NOT EXCEED TEN-PERCENT (10%) MORE THAN THE SHORTEST HIGHWAY ROUTE BETWEEN ORIGIN AND DESTINATION WITHOUT STOP-OFF. ROUTES AND MILEAGES SHALL BE DETERMINED AS PROVIDED IN ITEM 200.	
B.) THE BILL OF LADING OR SHIPPING ORDER MUST SHOW (1) THE POINT OR POINTS AT WHICH THE SHIPMENT IS TO BE STOPPED FOR PARTIAL LOADING OR UNLOADING, (2) A COMPLETE DESCRIPTION OF THE KIND AND QUANTITY OF LIVESTOCK TO BE LOADED OR UNLOADED AT EACH POINT, AND (3) THE NAME AND ADDRESS OF PARTY FROM OR TO WHOM EACH PORTION IS TO BE PICKED-UP OR DELIVERED. IF PICK-UP OR DELIVERY IS TO BE MADE AT TWO (2) OR MORE DIFFERENT ADDRESSES OR LOCATIONS AT THE SAME POINT (CITY, TOWN, OR VILLAGE), EACH PICK-UP OR DELIVERY SHALL BE CONSIDERED A SEPARATE STOP IN THE APPLICATION OF THIS RULE.	
C.) THE SUBSTITUTION OF OTHER LIVESTOCK FOR THAT ORIGINALLY LOADED, OR THE EXCHANGE OF CONTENTS OF THE SHIPMENT IN ANY MANNER, IS PROHIBITED,	
D.) LINE-HAUL TRANSPORTATION CHARGES ON SHIPMENTS STOPPED FOR PARTIAL LOADING OR UNLOADING SHALL BE DETERMINED ON THE MINIMUM WEIGHT, OR ACTUAL WEIGHT WHEN GREATER, OF THE ENTIRE SHIPMENT AT THE RATE APPLICABLE FROM THE POINT OF ORIGIN TO THE FINAL DESTINATION VIA THE STOP-OFF POINT OR POINTS,	
E.) STOPPING IN TRANSIT FOR PARTIAL LOADING OR UNLOADING WILL NOT BE PERMITTED ON SHIPMENT WHEN: CONSIGNED "C.O.D.", "TO ORDER", "ORDER NOTIFY", OR TO BE DELIVERED ONLY ON SHIPPERS WRITTEN ORDER, OR WHEN ACCOMPANIED BY INSTRUCTIONS FROM THE CONSIGNOR REQUIRING THE SURRENDER OR PRESENTATION OF THE BILL OF LADING, A WRITTEN ORDER, OR ANY OTHER DOCUMENT AS A CONDITION PRECEDENT TO DELIVERY AT STOP-OFF POINT.	
F.) THE DRIVER OF THE VEHICLE SHALL OBTAIN, IN WRITING, A STATEMENT, SUCH AS A NOTATION ON THE BILL OF LADING OR FREIGHT BILL, OF THE QUANTITY, DESCRIPTION, AND WEIGHT, OF THE PORTION OF THE SHIPMENT LOADED OR UNLOADED AT STOP-OFF POINT OR POINTS.	

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ORIGINAL PAGE 21

MONTANA LIVESTOCK TARIFF BUREAU, AGENT
 LIVESTOCK TARIFF NO. 3

SECTION 2
 APPLICATION OF RATES

RULES AND REGULATIONS	ITEM										
<u>STOPPING IN TRANSIT - CHARGE:</u> CARRIER SHALL ASSESS FOR EACH STOP-OFF AT AN INTERMEDIATE POINT OR POINTS AN ADDITIONAL CHARGE AS FOLLOWS: <table> <tr> <td>WHEN SHIPMENT IS TRANSPORTED IN OR ON:</td><td>CHARGE PER STOP SHALL BE:</td></tr> <tr> <td><u>STRAIGHT TRUCK</u></td><td><u>\$ 11.50</u></td></tr> <tr> <td><u>STRAIGHT SEMI-TRAILER</u></td><td><u>\$ 18.40</u></td></tr> <tr> <td><u>DROP CENTER TRAILER</u></td><td><u>\$ 23.00</u></td></tr> <tr> <td><u>TRUCK AND TRAILER</u></td><td><u>\$ 23.00</u></td></tr> </table>	WHEN SHIPMENT IS TRANSPORTED IN OR ON:	CHARGE PER STOP SHALL BE:	<u>STRAIGHT TRUCK</u>	<u>\$ 11.50</u>	<u>STRAIGHT SEMI-TRAILER</u>	<u>\$ 18.40</u>	<u>DROP CENTER TRAILER</u>	<u>\$ 23.00</u>	<u>TRUCK AND TRAILER</u>	<u>\$ 23.00</u>	350
WHEN SHIPMENT IS TRANSPORTED IN OR ON:	CHARGE PER STOP SHALL BE:										
<u>STRAIGHT TRUCK</u>	<u>\$ 11.50</u>										
<u>STRAIGHT SEMI-TRAILER</u>	<u>\$ 18.40</u>										
<u>DROP CENTER TRAILER</u>	<u>\$ 23.00</u>										
<u>TRUCK AND TRAILER</u>	<u>\$ 23.00</u>										
<u>UNIMPROVED ROADS OR HIGHWAYS:</u> THE RATES AND CHARGES AS NAMED HEREIN APPLY ONLY OVER PAVED HIGHWAYS AND IMPROVED ROADS. RATES TO BE ASSESSED FOR TRAVEL OVER UNIMPROVED ROADS OR HIGHWAYS SHALL BE THE APPLICABLE WEIGHT OR MILEAGE RATE FOR THE DISTANCE TRANSPORTED PLUS THE FOLLOWING CHARGE: AN ADDITIONAL CHARGE OF TWENTY-THREE DOLLARS (\$23.00) PER HOUR OR FRACTION THEREOF FOR THAT PORTION OF TIME PROVIDED IN EXCESS OF NORMAL TRAVEL TIME. NORMAL TRAVEL TIME IS THE TIME IT WOULD NORMALLY TAKE TO TRAVEL AN IMPROVED ROAD OR HIGHWAY. THE TERM "UNIMPROVED ROADS" AS USED IN THIS TARIFF MEANS A ROAD WHICH IS NOT PAVED OR ONE WHICH IS NOT GRAVELED AND DRAINED.	360										
<u>WEIGHING REQUIREMENTS:</u> EXCEPT AS MORE SPECIFICALLY PROVIDED IN ITEM 190, EACH SHIPMENT SHALL BE WEIGHED AT POINT OF ORIGIN, DESTINATION, OR WHILE ENROUTE: A.) WHEN TRANSPORTATION CHARGES ARE DETERMINED BY HUNDREDWEIGHT RATES, B.) WHEN CERTIFIED SCALES ARE AVAILABLE AND BOTH GROSS AND TARE WEIGHTS CAN BE DETERMINED. THE NET WEIGHT SHALL APPLY AND BE CERTIFIED BY THE WEIGHMASTER, SCALE OPERATOR, OR ANY OTHER PERSON RESPONSIBLE FOR THE SCALES. A COPY OF THE WEIGHT SLIP MUST BE FURNISHED THE DRIVER OR CARRIER S REPRESENTATIVE SHOWING THE GROSS, TARE AND NET WEIGHT AND SHALL BE ATTACHED TO THE ORIGINAL COPY OF THE BILL OF LADING AND FREIGHT BILL. THE CARRIER SHALL ATTACH A DUPLICATE COPY OF THE WEIGHT SLIP TO HIS COPY OF THE BILL OF LADING AND FREIGHT BILL AS A PART OF HIS PERMANENT RECORD.	370										

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MONT. P.S.C. NO. 3 & 4MONTANA LIVESTOCK TARIFF BUREAU, AGENT
LIVESTOCK TARIFF NO. 3

SECTION 3

INTRASTATE
DISTANCE OR MILEAGE COMMODITY RATES

—ON—

SHIPMENTS OF LIVESTOCK

BETWEEN POINTS IN	AND POINTS IN
MONTANA	MONTANA

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ORIGINAL PAGE 29

MONTANA LIVESTOCK TARIFF BUREAU, AGENT

LIVESTOCK TARIFF NO. 3

SECTION 3 - DISTANCE OR MILEAGE COMMODITY RATES

REFER TO ITEM 200 FOR METHODS OF DETERMINING DISTANCES.

LIVESTOCK, AS DESCRIBED IN ITEM 160 AND 170

ITEM

<u>COLUMN</u>	<u>MINIMUM WEIGHT</u>	<u>IF WEIGHT NOT KNOWN</u>	<u>VEHICLE LENGTH</u>
1	14,000 LBS	USE	23 -24 FEET
2	24,000 LBS	USE	40 FEET
3	31,000 LBS	USE	50 FEET
4	39,000 LBS	USE	60 FEET
5	42,000 LBS	USE	70 FEET
6	44,000 LBS	USE	80 FEET
7	46,000 LBS	USE	90 FEET
8	50,000 LBS	USE	OVER 90 FEET
9	52,000 LBS	USE	OVER 90 FEET
10	54,000 LBS	USE	OVER 90 FEET
11	56,000 LBS	USE	OVER 90 FEET
12	58,000 LBS	USE	OVER 90 FEET
13	60,000 LBS	USE	OVER 90 FEET
14	62,000 LBS	USE	OVER 90 FEET
15	64,000 LBS	USE	OVER 90 FEET
16	66,000 LBS	USE	OVER 90 FEET

DISTANCE IN MILES
(SEE ITEM 200)

DISTANCE OR MILEAGE COMMODITY RATES IN DOLLARS AND CENTS PER
SHIPMENT BY WEIGHT OR LENGTH OF VEHICLE

OVER	NOT OVER	COLUMN 1	COLUMN 2	COLUMN 3	COLUMN 4	COLUMN 5	COLUMN 6	COLUMN 7	COLUMN 8
0	15	31.20	45.80	52.60	66.10	71.20	74.60	78.00	85.00
15	20	37.10	63.60	75.60	74.40	80.10	84.00	87.80	95.00
20	25	43.00	71.20	78.90	95.10	102.40	107.30	112.10	120.00
25	30	49.00	84.00	91.80	107.50	115.80	121.30	126.80	140.00
30	35	56.40	91.60	108.40	115.80	124.70	130.70	136.50	150.00
35	40	60.80	99.20	118.30	136.40	146.90	153.90	160.90	175.00
40	45	66.80	104.30	128.20	148.80	160.30	164.90	175.50	190.00
44	50	71.20	114.50	141.30	157.10	169.20	177.20	185.30	200.00
50	55	74.20	124.70	147.90	169.50	182.50	191.20	199.90	215.00
55	60	80.10	127.20	161.00	177.80	191.40	200.60	209.70	230.00
60	65	81.60	137.40	164.30	186.00	200.30	209.90	219.40	240.00
65	70	89.00	139.90	177.40	198.40	213.70	223.90	234.00	255.00
70	75	90.50	150.10	180.70	202.60	218.10	228.50	238.90	260.00
75	80	95.00	155.20	193.90	206.70	222.60	233.20	243.80	265.00
80	85	97.90	165.40	197.20	219.10	236.00	247.20	258.40	280.00
85	90	105.40	180.60	210.30	223.20	239.60	251.90	263.30	285.00
90	95	111.30	190.80	213.60	227.40	244.90	256.50	268.20	290.00
95	100	112.80	198.40	216.90	243.90	262.70	275.20	287.70	315.00
100	105	118.70	211.20	233.30	248.00	267.10	279.80	292.60	320.00
105	110	123.20	216.20	243.20	252.20	271.60	284.50	297.40	325.00
110	115	127.60	223.90	246.50	264.60	284.90	298.50	312.10	340.00
115	120	133.60	231.50	249.70	268.70	289.40	303.20	316.90	345.00
120	125	135.00	236.60	256.30	272.80	293.80	307.80	321.80	350.00
125	130	142.50	244.20	262.90	289.40	311.60	326.50	341.30	370.00
130	135	145.40	249.30	272.70	292.60	316.10	331.10	346.20	375.00

(Item continued on following page)

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CANCELS
MONT. P.S.C. NO. 3 & 4

MONTANA LIVESTOCK TARIFF BUREAU, AGENT

LIVESTOCK TARIFF NO. 3

SECTION 3 - DISTANCE OR MILEAGE COMMODITY RATES

REFER TO ITEM 200 FOR METHODS OF DETERMINING DISTANCES.

LIVESTOCK, AS DESCRIBED IN ITEM 160 AND 170

ITEM

COLUMN	MINIMUM WEIGHT	IF WEIGHT NOT KNOWN	VEHICLE LENGTH
1	14,000 LBS	USE	23 -24 FEET
2	24,000 LBS	USE	40 FEET
3	31,000 LBS	USE	50 FEET
4	39,000 LBS	USE	60 FEET
5	42,000 LBS	USE	70 FEET
6	44,000 LBS	USE	80 FEET
7	46,000 LBS	USE	90 FEET
8	50,000 LBS	USE	OVER 90 FEET
9	52,000 LBS	USE	OVER 90 FEET
10	54,000 LBS	USE	OVER 90 FEET
11	56,000 LBS	USE	OVER 90 FEET
12	58,000 LBS	USE	OVER 90 FEET
13	60,000 LBS	USE	OVER 90 FEET
14	62,000 LBS	USE	OVER 90 FEET
15	64,000 LBS	USE	OVER 90 FEET
16	66,000 LBS	USE	OVER 90 FEET

DISTANCE IN MILES
(SEE ITEM 200)DISTANCE OR MILEAGE COMMODITY RATES IN DOLLARS AND CENTS PER
SHIPMENT BY WEIGHT OR LENGTH OF VEHICLE

OVER	NOT OVER	COLUMN 9	COLUMN 10	COLUMN 11	COLUMN 12	COLUMN 13	COLUMN 14	COLUMN 15	COLUMN 16	550 △
0	15	88.40	91.80	95.20	98.60	102.00	105.40	108.80	112.20	
15	20	98.80	102.60	106.40	110.20	114.00	117.80	121.60	125.40	
20	25	124.80	129.60	134.40	139.20	144.00	148.80	153.60	158.40	
25	30	145.60	151.20	156.80	162.40	168.00	173.60	179.20	184.80	
30	35	156.00	162.00	168.00	174.00	180.00	186.00	192.00	198.00	
35	40	182.00	189.00	196.00	203.00	210.00	217.00	224.00	231.00	
40	45	197.60	205.20	212.80	220.40	228.00	235.60	243.20	250.80	
45	50	208.00	216.00	224.00	232.00	240.00	248.00	256.00	264.00	
50	55	223.60	232.20	240.80	249.40	258.00	266.60	275.20	283.80	
55	60	239.20	248.40	257.60	266.80	276.00	285.20	294.40	303.60	
60	65	249.60	259.20	268.80	278.40	288.00	297.60	307.20	316.80	
65	70	265.20	275.40	285.60	295.80	306.00	316.20	326.40	336.60	
70	75	270.40	280.80	291.20	301.60	312.00	322.40	332.80	343.20	
75	80	275.60	286.20	296.80	307.40	318.00	328.60	339.20	349.80	
80	85	291.20	302.40	313.60	324.80	336.00	347.20	358.40	369.60	
85	90	296.40	307.80	319.20	330.60	342.00	353.40	364.80	376.20	
90	95	301.60	313.20	324.80	336.40	348.00	359.60	371.20	382.80	
95	100	327.60	340.20	352.80	365.40	378.00	390.60	403.20	415.80	
100	105	332.80	345.60	358.40	371.20	384.00	396.80	409.60	422.40	
105	110	338.00	351.00	364.00	377.00	390.00	403.00	416.00	429.00	
110	115	353.60	367.20	380.80	394.40	408.00	421.60	435.20	448.80	
115	120	358.80	372.60	386.40	400.20	414.00	427.80	441.60	455.40	
120	125	364.00	378.00	392.00	406.00	420.00	434.00	448.00	462.00	
125	130	384.80	399.60	414.40	429.20	444.00	458.80	473.60	488.40	
130	135	390.00	405.00	420.00	435.00	450.00	465.00	480.00	495.00	

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P.O. Box 1714

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Mr. Chairman and Members of the Committee

For the record,

My name is Patricia A. Slack, Corporate Secretary for James A. Slack Logging & Trucking. This is my testimony in favor of House Bill 192. Log trucking is a viable part of the timber industry, and these LOG TRUCKERS are entitled to earn a fair living.

My husband, James A. Slack, and I bought our first log truck in 1959. We have been operating logging trucks for 32 years in the Flathead valley. We have had as many as twelve trucks at one time and are presently operating five logging trucks. In 1979 we sold some of our trucks because we found that log trucking was not very profitable. I have always done all the bookwork for our business. In 1986 we included in our business the logging (or shipping) part of the business in order to keep our trucks busy and to insure that the trucks receive a fair price for hauling logs.

In my testimony I will refer to the mills as the manufacturer, the loggers as the shipper, and the log trucker as the carrier.

First some definitions:

What is a LOG TRUCK? A log truck is a conveyance that is used to transport processed logs from the woods or shipping point to the mill or manufacturer.

What is a LOG TRUCKER? A log trucker is a person who drives a log truck. He may either be employed by someone who owns the logging truck or, as in most cases, he may own his own log truck. After this he shall be called the carrier.

What are the MILLS? The mills, or manufacturer, are where logs are taken to be processed into lumber, plywood, chips, hog fuel, etc.

These processed products are then shipped by carrier to the consumer. The carriers of these processed products are all regulated.

What is a LOGGER? A logger is a contractor who contracts with the manufacturer to process the trees into logs to be hauled into the mill by a log trucker. His contract is usually for a fixed price for cutting the trees, delimbing and sorting them, and transporting this now processed log to the mill, therefore he is responsible to hire and pay the log trucker. He is allowed by the State and Federal government to either put the log trucker on the payroll and be responsible for all taxes, unemployment insurance, and worker's compensation insurance (which must be paid on 25% of the trucks gross), or he can sub-contract, with a written contract, to a carrier to get the logs to the mill. The carrier then must carry his own Worker's Compensation insurance and pay all his own taxes. According to our instructions from the State Worker's Compensation office and the Internal Revenue Service, who have audited us, we must have a written contract with a carrier other than our own trucks, to ship our logs to the mill. This contract must state a negotiated price for getting the logs to various mills, a time for payment, and a termination agreement. According to the State we must also have a copy of the carriers Worker's Compensation policy or a copy of his exempt (Independent Contractors) certification for Worker's Compensation. Our insurance carrier also requires a copy of the carriers liability insurance coverage in the limits that they state. Very few shippers have a written contract with the carrier, in fact, most carriers do not even know what they are getting paid for

transporting these logs to the mill, or when they will get paid, until they receive their first check from the shipper.

What is an INDEPENDENT CONTRACTOR?

I have enclosed a copy of the legal definition of an INDEPENDENT CONTRACTOR according to the legal counsel of the State Fund.

From the late 1950's and into the 1960's one to five truck carriers were carried on the payroll by the shipper, who paid all the taxes including Worker's Compensation and unemployment insurance. As bigger manufacturers absorbed smaller manufacturers they began to call the carriers INDEPENDENT CONTRACTORS which in turn made them responsible for their own Worker's Compensation and Social Security insurance. The carriers were also without unemployment insurance. To be fair, some of the smaller manufacturers and shippers still keep the carrier on the payroll, and those that do, usually pay a fair rate to the trucker. We were now called INDEPENDENT CONTRACTORS, but most of us have no written contracts with the manufacturer or the shipper.

The shipper tells the carrier; what time to be on the job, how much weight to carry on our trucks, what route to take, and where to take the load of logs. This sounds like the definition of an employee. Maybe the shippers should have all the log truckers or carriers on their payrolls and pay their taxes and insurance. With regulation carriers would be INDEPENDENT CONTRACTORS.

Without a contract, the carrier does not know what the rate is, and when they will get paid, if ever. Many times, when our trucks have picked up a load for another shipper when we are between jobs or during breakup, I have had to call the shipper to find out what rate he was paying so that I could pay our truck drivers. Some shippers do

not pay for 30 to 120 days after the logs are delivered, sometimes using the excuse that "they have not yet been paid by the manufacturer". Many shippers do not pass along the full rate allowed for transportation in their contracts with the manufacturer, using this deduction for bookkeeping fees which perhaps should have been compensated for in the shippers overall contract. Also, some manufacturers, not located near state weigh stations, allow overweight loads to make up for the lower prices for hauling.

Also with the severe fuel increases we have incurred this year, some of the manufacturers have allowed fuel cost allowance increases in the haul rates to be adjusted according to fuel prices. Many carriers are not receiving these increases from the shippers.

Without a contract, if a carrier goes to the manufacturer with a complaint, he is told to talk to the shipper (or logger) and he often can't negotiate with the shipper because he does not have a contract.

What are the opponents afraid of? Are they the shippers that are not being fair with their truckers? Are the opposing truckers afraid of their jobs?

Some of the opposing truckers will tell you that they will be inundated with paperwork and it will cost them so much, and that they will be audited all the time. That is not true! We have been regulated for the last 16 years for transporting heavy equipment. Four times a year we must make a report to the Public Service Commission. All you have to know is your gross revenue for three months. If they don't know this, then they are not keeping any kind of books, and should be. If they were to make \$100,000 per year with their truck it would cost them only \$90 per year. This is not a big

Ex. 7
3-21-91
HB 192

expense when you consider shorter safer hours, more pay and a better lifestyle. Also, in 16 years we have never been audited by the PSD.

If the carrier is not paid a fair rate he is not able to meet all his expenses and still keep his truck in a safe operating condition. Many truckers are forced to neglect safety maintenance simply because there is not enough money to go around. Sometimes there is just not enough money for new tires or brakes when they are needed. Without compensatory rates, often the trucker's concern is to operate his truck in an unsafe condition until next payday when he will have enough revenue to correct the unsafe condition. That is, if they get paid on time.

I feel that House Bill 192 should be passed because the carrier would have a fair and just rate.

Thank you.

Patricia A. Slack
2970 Highway 2 East
Kalispell, MT 59901
406-752-2959

39-71-120. Independent contractor defined.

(1) An "independent contractor" is one who

renders service in the course of an occupation and:

(a) has been and will continue to be free from control or direction over the performance of the services, both under his contract and in fact; and

(b) is engaged in an independently established trade, occupation, profession, or business.

(2) An individual performing services for remuneration is considered to be an employee under this chapter unless the requirements of subsection (1).

As stated in the definition of employee, to establish an employment relationship of any kind, requires that an identifiable contract be a threshold determination. The contract may be oral or written, expressed or implied. The case at bar is an oral contract, if any. Sections 28-2-101, MCA et.seq. cover the statutory considerations regarding contracts. In Section 28-2-102, MCA the law sets forth the four essential elements of a contract, namely:

- (1) identifiable parties capable of contractry
- (2) their consent;
- (3) a lawful object; and
- (4) a sufficient cause or consideration.

Certainly Mr. Morris and Montana Forward had the capacity to contract and their consent is clear if for no other reason that on at least two occasions prior to the case, the same contract terms were executed. The object of Morris piloting candidate Waltermire was certainly lawful and the payment of \$100 per day plus expenses in exchange for piloting the aircraft, clearly satisfies the statutory requirements of consideration.

Thus, if Morris were not an "independent contractor" excluded from being an employee by the definition in Section 39-71-118, MCA, coverage exists.

In determining whether a person is an "independent contractor" or an "employee" for purposes of Workers' Compensation, the Montana Supreme Court has gone to great length to examine the issue. The leading Workers' Compensation case in this regard is Sharp v. Aetna Casualty and Surety Co., 178 Mont. 419, 584 P.2d 1298 (1978).

Beginning at page 424, of the opinion, the Court stated in Sharp, supra:

The statute involved in this appeal is section 92-438.1, R.C.M. 1947, which defines

"independent contractor" as one who renders service in the course of an occupation and:
"...(1) has been and will continue to be free from control or direction over the performance of the services, both under his contract and in fact; and
"(2) is engaged in an independently established trade, occupation, profession or business." (Emphasis added.)

This statute clearly establishes a two-part test that must be met before an individual is classified as an independent contractor. First, he must be free from the control of his employer, under his contract and in fact, in the performance of his services. Second, he must be engaged in an independently established occupation. Appellant has conceded she meets the second part of this test, so our concern is with the first requirement, the absence of the "right of control".

Section 92-438.1(1), R.C.M. 1947, reiterates the basic test in Montana for determining independent contractor status, namely, the right of control over the person doing the work involved. "The vital test in determining whether a person employed to do a certain piece of work is a contractor or a mere servant, is the control over the work which is reserved by the employer." *Kimball v. Industrial Accident Board* (1960), 138 Mont. 445, 449, 357 P.2d 688. "The test to determine whether or not an employer-employee relationship exists ...is the so called control test. Under that test an individual is in the service of another when that other has the right to control the details of the individual's work." *State ex rel. Ferguson v. District Court* (1974), 164 Mont. 84, 88, 519 P.2d 151. Respondent has argued an employer must control the details of a performance before the performer is considered an employee. However, the determinative test is based on the right, not just the exercise, of control. *Larson, Workmen's Compensation Law*, Vol. 1A, Sec. 44.10, p. 8-19; *Ferguson*, supra.

Section 92-438.1(1), R.C.M. 1947, also states in determining this right of control,

Ex. 7
3-21-91
HB 192

attention must be directed to the employment contract and the fact of the employment situation. In the present case, we have no written contract before us to aid in making the determination of freedom from control, and the parties have not contended for the existence of an implied contract. We therefore, must look at the factual situation, pursuant to the statutory direction, to determine whether respondent-employer had the right to control the work of appellant.

Larson's treatise enumerates four factors to consider when attempting to determine right of control in a given situation. Those factors are: (1) direct evidence of right or exercise of control; (2) method of payment; (3) furnishing of equipment; and (4) right to fire. Larson, Sec. 44.31, p.8-35. The treatise further points out that the consideration to be given these factors is not a balancing process, rather "...independent contractorship...is established usually only by a convincing accumulation of these and other tests, while employment ...can if necessary often be solidly proved on the strength of one of the four items [above]." Larson, supra.

We should note that Section 92-438.1 R.C.M. 1947 cited in Sharp is identical to Section 39-71-120, MCA in the case at bar.

TESTIMONY OF LYLE DOTY
BEFORE THE HIGHWAYS AND TRANSPORTATION COMMITTEE
THURSDAY, MARCH 21, 1991

MR. PRESIDENT AND MEMBERS OF THE SENATE:

MY NAME IS LYLE DOTY. I AM A RESIDENT OF FLATHEAD COUNTY AND I LIVE IN KALISPELL, MONTANA.

I AM IN THE LOG TRUCKING BUSINESS AND I HAVE BEEN FOR TWENTY-FIVE YEARS. I HAVE FOUR LOG TRUCKS, AND I EMPLOY 3 DRIVERS AND I OPERATE ONE TRUCK MYSELF. I AM HERE TO ASK FOR YOUR SUPPORT OF HOUSE BILL 192, ON ECONOMIC LOG TRUCK REGULATION.

THE LOG TRUCKING INDUSTRY IS IN A SERIOUS STATE OF DETERIORATION, BECAUSE OF THE LACK OF REVENUE. MANY OF THE LOG TRUCK OWNERS ARE OPERATING OLD AND OUTDATED EQUIPMENT. THE MAINTENANCE OF THEIR EQUIPMENT IS VERY MINIMAL AND IN SOME CASES NOT AT ALL. THE LOG TRUCK INDUSTRY IN VIEW OF THE NEW FEDERAL DEPARTMENT OF TRANSPORTATION RULES AND REGULATIONS, FACES A SAFETY CRISIS.

OVER THE PAST 10 YEARS THE INDUSTRIES REPLACEMENT COSTS HAVE DOUBLED. OUR MAINTENANCE COST OF TIRES, FUEL INCREASES, REPAIRS, LABOR COSTS, INSURANCE RATES, AND TAXES, HAVE ALSO INCREASED TO THE POINT THAT THE LOG TRUCK INDUSTRY CAN NOT AFFORD TO MAINTAIN THEIR EQUIPMENT PROPERLY. THEREFORE, WITH NO MAINTENANCE COST INCREASES, THIS IS CREATING MANY SAFETY PROBLEMS.

IT HAS BECOME ALMOST IMPOSSIBLE FOR THE LOG TRUCKER TO STAY IN BUSINESS. THERE HAVE BEEN NO INCREASES IN CARRIER RATES FROM EITHER THE SHIPPER OR MANUFACTURER IN THE PAST 10 YEARS, WITH THE EXCEPTION OF 2 SMALL MANUFACTURERS.

MUCH OF THE INTRASTATE TRUCKING ACTIVITY IS CURRENTLY REGULATED IN MONTANA AND HAVE BEEN FOR MORE THAN 50 YEARS. MOST STATES REGULATE TRUCKING OF INTRASTATE FREIGHT. 9 STATES PRESENTLY REGULATE LOGS IN SOME FORM OR WAY FROM THE FOREST TO THE MANUFACTURER (MILLS).

LOG TRUCK OWNERS CAME TO THE DECISION TO ASK FOR ECONOMIC REGULATION AFTER A GREAT DEAL OF THOUGHT AND CAREFUL CONSIDERATION. ECONOMIC REGULATION WILL CHANGE THE LOG TRUCK INDUSTRY. REGULATION WILL NOT HARM ANY OTHER ASPECT OF THE TIMBER INDUSTRY, WHETHER IT IS THE SHIPPER OR THE MANUFACTURER. CARRIER RATES WILL BECOME AN OPEN PROCESS BASED ON ACTUAL COSTS. THE CURRENT SYSTEM IN SETTING CARRIER RATES IS OUTDATED AND IS NOT CURRENTLY WORKING.

MR. CHAIRMAN AND MEMBERS OF THIS COMMITTEE, I AM ASKING FOR YOUR STRONG SUPPORT IN* HOUSE BILL 192 FOR ECONOMIC LOG TRUCK REGULATION. LOG TRUCK OWNERS ARE SMALL BUSINESSMEN, BUT BECAUSE OF THE CONCENTRATED POWER IN MONTANA'S TIMBER INDUSTRY, THEY HAVE LOST CONTROL OF THEIR BUSINESSES AND ANY CHANCE OF A FREE ENTERPRISE ENVIRONMENT.

IN ASKING FOR YOUR SUPPORT OF HOUSE BILL 192 ON ECONOMIC LOG TRUCK REGULATION, WE ARE GIVING BACK TO THE LOG TRUCK OWNER CONTROL OF HIS OWN DESTINY AND WELFARE. IT WILL ALSO GIVE THE LOG TRUCK INDUSTRY A CHANCE TO MAKE ITS OWN DECISION AND TO GOVERN ITSELF.

I THANK YOU FOR YOUR TIME AND ONCE AGAIN I ASK FOR YOUR SUPPORT ON PASSING HOUSE BILL 192.

SINCERELY,

LYLE DOTY

Mr. Chairman, Members of the Committee:

My name is Arletta Mrgich. I reside at 3112 Sinclair Creek Road in Eureka, Montana.

My husband Michael and I have owned and operated a logging truck since 1964. We support House Bill 192. We feel that this bill will give us some stability in our industry for the first time.

Two years ago I spoke before the House Committee about our financial plight in my testimony in support of a similar bill. Testimony from both sides of this issue was given. The truckers who spoke against regulation had two main fears. The loss of their jobs and undue regulation.

The loss of jobs due to logging contractors buying their own trucks has to be given consideration. Some will buy their own but many others will find that the financial expenditure as well as the employees and their related expenditures far outweigh any anticipated benefits.

In the past 27 years, every time we asked for a raise, the mills threatened to buy their own trucks. That is certainly nothing new. They obviously couldn't own their own trucks as cheaply as we work or all the mills would own all the trucks.

Safety regulations, as in hours of service and DOT (CVSA) inspections, came to pass anyway. I'm sure more will follow; with or without regulation.

Under current regulation, other Montana trucking businesses have a contract that, among other things, spells out hauling rates. Some

logging truckers do have contracts now; but they are for the purpose of Workers Compensation, not rates.

In later testimony, I'm sure you will hear from logging contractors who own their own trucks. They will most likely state that they know what the hauling rate is. If the logger works for a mill, he usually has a written contract that includes costs for cutting and transporting logs. A contract would allow us to know, before we turn a wheel, how much that job pays. As things stand now, we usually have to wait until we get our paycheck to know what the rate is. The hauling rates are set between the logger and the mill in their contract. Or if the logger bids a Forest Service sale, he must take the hauling distance into account; but he doesn't ask the trucker to suggest a rate.

Most mills will not tell the trucker what a job pays. They say it is between the logger and the trucker. Most loggers pay the allotted rate to the trucks, though there are some loggers who routinely withhold a part of the truck rate to help pay for their logging costs.

We don't have this luxury. Fuel is our biggest expense. When the cost of fuel skyrockets and our rates don't change to reflect this increase, we fall further behind economically. Regulated truckers are routinely paid a surcharge in addition to the regular rate when the price of fuel takes a large jump as it did last fall. The shipper must see that the trucker gets this surcharge. We have heard that some mills were paying a surcharge. My husband has hauled to three different mills since the fuel hike and if the mills were paying a surcharge, we didn't receive it.

We have been placed in a no win situation. The loggers say they can't afford to pay us more, yet we have no say in setting a haul rate during the negotiations. I really don't think that the haul rate is even a very important part of the loggers negotiations. He is more

EX. 7
3-21-91
HB 192

concerned, as he should be, with his logging costs. But that still leaves the trucks left out of our own rate negotiation.

If we were regulated, all parties could sit down without the threat of breaking the Antitrust Act and negotiate a fair and reasonable compensatory rate. Logging contractors, knowing the published rate allowed by the PSC, would be on an equal footing on bidding a logging job; as far as the trucking rates go. This would allow each contractor to concentrate on his logging costs. It would not pit contractor against contractor in any way different than is the case now.

Regulation puts all the contracts on the table and allows those who can prove their expenses are below the average to submit a cheaper rate if so desired. A regulated rate simplifies and clarifies transportation costs to all parties involved.

We have returned again to seek regulation because in the last two years nothing has changed. The same rhetoric and intimidation exist now as it did then. We are not asking for outlandish rates or any pay guarantees; just an equal footing and compensatory rates.

Please help us settle this issue. We do not want to return here in another two years to tell you the same stories of deteriorating conditions that will effect the safety and economic viability of our industry.

I ask that you support this bill. Thank you.

5 Paring

SENATE HIGHWAYS

EXHIBIT NO. 10

DATE 3-21-91

BILL NO. HB 192

Honorable Senators, Ladies and Gentlemen:

I have been a log trucker in Eureka, Montana for approximately 8 years and I am in favor of HB 192.

Rates for hauling have not changed in over 12 years, but costs have spiraled. These rates are determined by the mills in most cases, and as a log trucker you are left in the dark as to the rate you are hauling for. The majority of log truckers haul without a contract, so it is usually a shock to find out what you have been working for. This also leaves the log trucker at a distinct disadvantage if someone decides not to pay him for work performed.

Although rates are an important issue, there also needs to be a standard for rates for different types of roads, to stop the rate undercutting and also the rate skimming. Since we operate on a casual take it or leave it basis, this is a very important in order to survive in this business.

The LTC approached the legislature 2 years ago for the regulation that you are now considering and it never moved further than the House Transportation Committee. At that time promises were made to correct some of the more glaring problems that existed, but this didn't happen, that is why the LTC is back in front of the legislature asking for some relief and for the return of some control of the rates to the people who perform the work.

I know that there has been much said about the state of the timber industry in Montana and would agree to some of it, but there have been some banner years for the mills since 1978 when the last rate was negotiated and there has been no attempt on the part of the mills who control the rates to increase them or give a fair and equitable rate system to the trucking industry even though the cost of doing business has raised considerably.

That is why I am here today asking for your consideration of HB192 and your support for it in the Senate.

Thank you for listening to my statement.

*I would ^{again} ask for your support of
House bill 192*

Dane Brandt

Hello members of the Highway Transportation Committee. My name is Dane Brandt and I am from Eureka, Mt. ^{I have been doing this since 1975} I have traveled over here to Helena to ask your support of House Bill 192. We brought this bill to the legislature in 1989 when it was tabled and we were told that something would be ^{done} by the mills to help out our financial woes of working 13 years without a raise. Nothing has happened so we are back here again with a favorable passage from the House of Representatives and now we are asking for your help.

I don't think anyone here will deny that all phases of the Logging Industry could use a ~~little~~ ^{more} raise in ~~prices~~ ^{wages}. Many other types of ^{Businesses} ~~of Industry~~ have had to raise their rates to stay in Business. The U.S. Postal Service, United Parcel Service, Major Airlines, ~~Oil Companies~~ ?? Oil Companies & on down the line. I'm not sure about that last one that might be a farce.

The ~~the~~ Log Trucking industry needs H.B. 192 to establish a fair & reasonable rate of pay that will ~~maybe~~ help some of us continue to make a living and stay in business. ~~without~~ ^{without} the ~~the~~ mills & the loggers need to become more self-sufficient by not over bidding timber sales & ~~stop~~ ^{stop} encouraging loggers to borrow from their truckers pay checks.

Please Support H.B. 192

Thank you

SENATE HIGHWAYS

EXHIBIT NO. 12

DATE 3-21-91

BILL NO. HB 192

Mr. Chairman, Members of the Committee:

My name is Sam Brady. I reside at 535 Reservoir Road in Whitefish, Montana. I am here today to ask for your support for House Bill 192.

I am an independent businessman. I have been an owner/operator of a logging truck since 1975. I consider myself a sub-contractor. There seems to be some confusion on whether log truck owner/operators are employees or sub-contractors. An employee is told what amount of money he will work for. A sub-contractor submits a contract of his own. Regulation will clarify this issue. Being able to submit a written contract will verify that I am indeed an independent businessman who is a sub-contractor who happens to have a logging truck. Throughout the years, I have told my contractor that I have needed an increase in the rates to keep up with costs incurred in my business. I have also stated that issue to the mills. I have never received an increase of any kind. I have been hauling logs for 16 years without an adjustment in my earning power, and feel that the safety of my equipment is about to be compromised.

So, over two years ago, again, a few of us braver log truckers approached the mills and requested an increase in the monies we received for our services. The mills told us they would not talk to us individually. They told us to organize and come back to talk to them. At that time, we organized the Log Truckers Association of Montana. We then returned to the mills, and were promptly threatened with a million dollar anti-trust law suit for attempting to set rates. Only when we reminded them that they were stealing all the weight over 80,000 pounds that we hauled into their yards, did they drop the law suit, and start paying us for all of the weight our trucks legally

That was when we first came to Helena. We were asking for a way to try and take control of our own industry, by economically keeping pace. The mills told us that we did not have to become regulated to do this. Members of the House required us to sit down with the mills and work out our problems. Then our bill was killed.

We did attend such a meeting. The first thing stated by one of the mills' lawyers, was that we could talk about anything except the economics of the log trucks and the mills' relation to that, or we would be in violation of the anti-trust laws again. So, we discussed the weather and went home. So, here we are again. Please do not send us back to that table. The mills are unwilling to contribute to the solution of our economic plight. We need regulation to gain a mediator, so that we may express our operating costs without fear of another law suit.

We are unable to keep up with spiraling operating costs. One example, is that increased fuel costs alone have cost us approximately \$800.00 a month more since August 1990, without any compensation. That money came directly out of our pocket. Regulation will address the problem of inflationary costs. Regulation will clearly define a contract and precisely spell out all costs involved. Regulation will give me a voice in my own business, as other businesses take for granted.

The mills will tell you that with regulation they will go broke, or buy their own trucks. The contractors will tell you that with regulation they will go broke, or buy their own trucks. Well, I'm telling you that without regulation, I will go broke and anyone can buy my truck.

Thank you for your time.

WITNESS STATEMENT

To be completed by a person testifying or a person who wants their testimony entered into the record.

Dated this 21 day of March, 1991.

Name: Barton L. Cooper

Address: Box C

Boulder mt 59632

Telephone Number: 225-3886

Representing whom?

B.L. Cooper Inc Family owned Logging Contractor

Appearing on which proposal?

HB 192

Do you: Support? Amend? Oppose? ✓

Comments:

I do not feel the P.S.C. has the man power or ability to enforce the log hauling rate. the Livestock haulers were regulated about 15 years ago and I supported that regulation as I was a livestock hauler at that time. However lack of enforcement led to constant rate violations and are still happening today. a recent check with a local livestock hauler told me the charge to haul a load of cattle from Butte mt to miles City mt would vary over \$100 depending on the hauler. we must have good enforcement and a fair rate in order to have a law we can all live with. It will be difficult for me to operate part of a business that is regulated and part that isn't. I don't think you can force someone to pay more for something than they think it is worth.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

SENATE HIGHWAYS

EXHIBIT NO. 14

DATE 3-21-91

BILL NO. HB 192

OPPOSITION TO HOUSE BILL NO. 192

BY

RICHARD R. COVERDELL

COLUMBIA FALLS, MONTANA

My name is Dick Coverdell. I'm from Columbia Falls, Montana. I am the "Papa" part of a "Mom & Pop" operation with one log truck. I've been hauling logs for 20 years. Seventeen of those have been as an owner-operator.

I've been through many "ups and downs" through these years. More "downs" than "ups" it seems. The past five years seem to have all been "downs." Timber is becoming scarce -- especially public timber. Mills are shutting down. Consequently, the need for log haulers is decreasing. This has created a situation where there are more log haulers than jobs. This in turn has created a "take it or leave it" attitude by many log shippers.

Costs to operate a log truck have skyrocketed. Fuel, parts, tires, labor for major repairs, state and federal taxes and fees keep going up. Trucks are a prime target when someone thinks more monies are needed to finance a favorite state or federal project. However, hauling rates have not kept up.

Some of this lack in keeping up is due to our economy. The woods product industry is controlled by public demand. The industry is also being controlled by environmentalist whims. This is a big reason for mill shut downs. All of this has the log haulers that are left fighting for survival. When log haulers cannot negotiate for the pay they will receive for hauling, they have no way of even trying to survive. Their hands are tied.

This spawned the idea to get regulation. Two years ago a bill was introduced to make log hauling a class B common carrier under P.S.C. control. It was defeated. I testified against that bill

and I'm testifying against this bill, House Bill #192, for the same reasons. I'm against state regulation by the Public Service Commission.

There is no need for regulation of log hauling in Montana by the P.S.C. or any other state agency. What is needed is a state mandated contract between log shippers and haulers stating terms and conditions agreed upon by both parties.

I haul under contract and have done so for years. I have attached copies of my contract to this statement I'm making along with a sample copy of the itemized computer read-out sheets detailing one of the hauls for that pay period. The contract is a simple, easy-to-read form. It states what is expected of each party, shipper and hauler, or company and contractor. It states when I'll be paid, which is the 10th and 25th of each month. It states that the rate is a mutual agreement. This means I can negotiate without going to the P.S.C. for approval. It also contains what is required of me pertaining to insurance, etc.

This brings up a question in my mind as to who the Worker's Comp. carrier is when there is no contract.

When fuel costs started climbing this past year I negotiated to defray the higher costs. I didn't have to go to the P.S.C.

If I end up on a haul that the rate isn't adequate, I can negotiate. I don't have to go to the P.S.C. "Negotiate" -- mutual discussion. The American way! Free Enterprise!

The computer read-out sheets are very easy to decipher. The top sheet shows the hauling or pay period, hauler number (the

computer knows me as a number), the sale number, and in some cases, the sale unit number. It also shows my name, the sale name, the weight hauled in tons and pounds, the cost per ton which was the hauling rate at that time, the number of loads I hauled off of that sale that pay period, and the amount I earned. The bottom sheet shows the load ticket number, and to the right of it is the gross, tare and net weights.

In the truck I carry what I call my "black book". In it I enter the sale name and load ticket number. When I weigh in and out at the mill I simply subtract empty from loaded weight and get my net weight.

Read-out sheets are sent to me 4 to 5 days before every payday. I compare my black book figures with the read-out sheets. If there is a problem I can "squeak." I don't need to go to the P.S.C.! I'm not "ripped off" so much a load by the shipper for paper and payroll costs like many haulers are.

There have been hauls where I can't get my legal gross weight because of poor timber. Dead lodgepole can take up a lot of room and yet have no weight. On these hauls I'm paid for a legal load. I've hauled cleanup loads where I'm not even half loaded. Once again, I'm paid for a legal load. Under P.S.C. regulation this will not happen!

I don't have to buy "bingo stamps", pay filing fees, or worry about how many contracts I have. I don't have to open my home and let a state inspector in to inspect my properties, facilities, operations, accounts, service, practices, and affairs. I don't

Ex. 14
3-21-91
HB 192

have to file annual reports, tariffs, schedules, etc., etc. All of this would be required as quoted under House Bill #192.

There is nothing in this bill that says I will be better off financially. House Bill #192 is nothing but a bill to create what I already have -- a contract. A simple contract! The difference is that House Bill #192 says I will be regulated by the state and that tariffs will be negotiated by a tariff bureau which allows the majority to be ruled by a few.

Thank you for letting me testify.

Richard R. Coverdell

LOG HAULING CONTRACT

Ex. 14
3-21-91
HB 192

THIS AGREEMENT, made and entered into, in duplicate, this 1st day of May, 19 90, by and between Richard Coverdell of 995 Walsh Rd., Columbia Falls, MT party of the first part, hereinafter referred to as "Contractor" and the F.H. Stoltze Land & Lumber Company, a corporation, the party of the second part, hereinafter referred to as the "Company".

WITNESSETH: The parties hereto for and in consideration of their mutual covenants and agreement herein contained, do agree and contract with each other as follows:

1. For and in consideration of the sums hereinafter mentioned to be paid by the Company to the Contractor, the Contractor agrees and undertakes to provide all trucks and other equipment and all labor employed by him necessary to haul and deliver in an efficient and workmanlike manner customary to the log hauling trade and business to the Company at Half Moon or as designated, such sawlogs, poles and other forest products as said Contractor may be requested to haul from various surrounding areas in which saw logs, poles and other timber products may be produced by the Company, its servants, agents, employees, or contractors.
2. The schedule of payment shall be mutually agreed to by Contractor and Company. Payment will be made on a per ton mile basis.
3. The Company agrees to pay the Contractor in full for all sawlogs, poles and other forest products hauled. Payment shall be paid on the 25th of each month for logs delivered between the 1st and the 15th of such month, and on the 10th day of each month for logs delivered between the 15th of the preceding month and the 1st day of the present month.
4. The Contractor further agrees that all sawlogs, poles and other forest products shall be delivered to the Company free and clear of all liens, encumbrances or claims for labor, materials, or supplies, and, in the event any lien be filed or claim be outstanding for which a lien might be filed, the Company shall have the right to retain and keep enough moneys to protect itself from said lien or claim. The Company, at its option may demand and require production of receipts or satisfactory evidence showing payment in full of all labor employed in the performance of this contract and assessments or other payments accrued under State and Federal Laws on account of labor employed under this contract, and no payments shall be made hereunder until such receipts, when demanded, have been presented to the Company.
5. The Contractor shall immediately take out, at his own expense, Workmen's Compensation coverage for every person in his employ and said Contractor shall otherwise fully comply with all of the Federal and State laws for each state in which he operates under this agreement relating to Workmen's Compensation and Industrial Insurance as well as Unemployment Compensation, and other appropriate State laws governing employers, as well as any amendments made effective during the term of this agreement.
6. The Contractor agrees that he will abide by the Fair Labor Standards Act of 1938, as amended, and the rules and regulations promulgated thereunder, as well as the Social Security Acts, Internal Revenue Acts and other Federal Acts as shall govern employers, together with the rules and regulations promulgated thereunder, and any amendments that may be made effective in said laws during the term of this agreement. The Contractor shall also comply with the Occupational Safety and Health Act, the Equal Pay Act of 1963, Title VII of the Civil Rights Act of 1964, The Age Discrimination in Employment Act of 1967, Executive Order 11246 of the President of the United States, Section 503 of the Rehabilitation Act of 1973, 38 U.S.C. 2012 of the Vietnam Era Veterans Readjustment Assistance Act of 1974, Employee Polygraph Protection Act, and any amendments that may be made effective in said laws during the term of this agreement.
7. It is agreed and understood that the parties hereto and in the relationship to each other of independent contractors and that the Contractor is contracting independently of the Company and that the parties in no way stand in the relationship of master and servant, principal and agent, or employer and employee. It is further understood and agreed that excepting as herein provided, the Contractor shall be and remain free from the direction and control of the Company in all particulars in the performance of this agreement.
8. The Contractor agrees to furnish all labor, supplies and equipment necessary to the performance of this agreement.

9. The Contractor agrees to comply with all State and Federal Laws and U.S. Forest Service Rules, including but not limited to those governing hauling, load limits, safety and comparable laws and rules.

10. The Contractor agrees to carry on his activities under this contract in a safe and/or legal manner so as not to endanger the person or property of the Company or it's employees, agents or other contractors.

11. It is specifically understood that the Contractor shall secure and keep in effect during the term of this contract and any period by which said contract may be extended, a policy or policies of public liability insurance sufficient to satisfy any and all possible claims for personal injuries or property damage arising from or as a result of the conduct of his operations under this contract. Evidence of this insurance must be filed with the company.

12. Contractor further agrees to hold the Company forever free and harmless from any and all claims, debts, or charges arising out of or as a result of the conduct of his operations in the performance of this contract.

13. It is further agreed that neither this contract nor any interest herein can be assigned by the Contractor, without the consent, in writing of the Company.

14. The contract cannot be altered, modified or deviated from, unless such alterations, modification or deviation shall be in writing and signed by the parties hereto.

15. This contract shall extend to and by binding upon and inure to the benefit of the Contractor, his heirs and personal representatives, and the Company, it's successors and assigns.

16. It is understood and agreed that this contract is not severable and that time is of the essence of the performance, and that, in the event the parties hereto shall fail to perform this contract, or any part thereof, at the time and in the manner specified except for a strike, riot, civil commotion, war, whether declared or not, or Act of God, either party may, at its option, with five (5) days written notice upon the other terminate this contract and either party shall have no further rights or interest under this contract. It is further understood and agreed that the waiver of one or more defaults shall not constitute or be construed as a waiver of subsequent defaults or an alteration of this contract or of the right of the Company to insist upon strict compliance of the term hereof.

17. This agreement shall remain in full force and effect to and including June 1, 1991, unless breached prior thereof and notice of termination is delivered in writing to the other party. This agreement may be continued for specific limited periods of time by endorsement herein so specifying such continuance, signed by each party hereto.

18. The log hauler and his employees will operate at all times in accordance with Best Management Practices as adopted by the Montana State Environmental Quality Council in January, 1989.

IN WITNESS WHEREOF: The parties hereto have duly executed this contract, the day and year hereinabove written.

WITNESSES:

Contractor

F.H. Stoltze Land & Lumber Company

Ex. 14
3-21-91
HB 192

HAULER COST DISTRIBUTION SHEET

JANUARY 1-15, 1990

HAULER: 94

RICHARD COVERDELL

SALE: 14-045214

GROSS CONFIDENTIAL CONTROL

UNIT:

ACCOUNTS PAYABLE: 7-13210

	WGT/LBS	TOR/VOL	COST	EXTENSION
HAULING TO STOLTZE MILL	810660	405.33	\$7.3793	\$2991.05

TOTAL DOLLAR AMOUNT: \$2991.05

NUMBER OF LOADS:

TRUCK: 15.00

RAILCAR: .00

HAULER DETAIL LOAD REPORT

JANUARY 1-15, 1989

HAULER: 34

RICHARD COVERDELL

SALE: 14-045214

GRUBB CONIFF PEST CONTROL

UNIT:

TICKET/LOAD	WEIGHT	GROSS	TARE	NET	VOLUME
103391		79360 -	25900	53460	
103395		79900 -	25760 -	54140	
103400		79960 -	25840 -	54120	
103453		80240 -	26160 -	54080	
103458		79880 -	25620 -	54260	
103463		80620 -	25520 -	55100	
103466		79860 -	26000 -	53860	
103468		80260 -	25720 -	54540	
103473		79840 -	25700 -	54140	
103479		79660 -	25800 -	53860	
103483		79900 -	25640 -	54260	
103487		79580 -	26180 -	53400	
103492		80080 -	26000 -	54080	
103498		80420 -	26140 -	54280	
103503		79020 -	25940 -	53080	

1198580 387920 910660

TRUCK LOADS: 15.00
RAILCAR LOADS: .00

EX. 15 15
3-21-91
HB 192

WITNESS STATEMENT

To be completed by a person testifying or a person who wants their testimony entered into the record.

Dated this 21 day of March, 1991.

Name: Jeannette Hahn

Address: 185 Cameron Br. Rd W Bozeman MT.
59715

Telephone Number: 406-388-7270

Representing whom?

Rodney Hahn Trucking

Appearing on which proposal?

HB 192

Do you: Support? Amend? Oppose? X

Comments:

See attached apposal Statement
to HB 192.

Opposed HB 192

3-21-91

SENATE HIGHWAYS

EXHIBIT NO.

15

DATE

3-21-91

BILL NO.

Committee HB 192

Mr. Chairma & members of the

My name is Jeannette Hahn I'm from Bozeman MT & I represent Rodney Hahn Trucking. We are members of the MT Log Truckers Ass. and we oppose HB 192.

My husband and I own & operate one self loading log TRUCK & have been very successful for the past 12 years.

From a women's point of view & maybe other wives who handle the bookkeeping end of their businesses, I feel to regulate Log hauling would add substantial amounts of paperwork. We have a system now that has done us well for 12 years, why should we have to change now?

For the PSC to come in & tell us ^{we} have to change our system to meet there needs in record keeping & bookkeeping will add hours of frustration with no financial returns. It will cost us more, - Insurance more personal Service, more report filing, more contract & more government regulation - This is not cost effective. Why should we need a bill to regulate the price we haul for. We know what we must haul for & negotiate that with the logger. Otherwise we wouldn't still be in business successfully after 12 years. And for those log truckers that state they don't know what there rate of hauling is until they get there paycheck is foolish on there own part. For small self employed operators such as our selves we need less regulation not more.

Mr Chairman - committee members
For the record my name is Ernie Torrey from Townsend. I am an independant owner operator of one log truck. I have been in the log hauling business as an independant for 20 years. I have always been able to negotiate my haul rates to fit the conditions of the haul. I feel that I can do a better job at this than the PSD can from a desk in an office. I am out on these jobs everyday and know the changing conditions immediately and can negotiate price at any time for any number of loads in a few minutes. If I make a mistake I would rather be displeased with myself than a government organization.

~~I have yet to talk to a log hauler on the East side that supports this bill.~~

I believe that the two contract portion is unworkable as I often times haul for 3 to 4 contractors at the same time. We have many small contractors that only put up a few loads a week and can not keep a truck steady, so myself and others when we are short of hauling go on these small jobs and help them catch up.

I have yet to talk to a log hauler on the East side that supports this bill. ~~Thank you~~ This bill was ~~originated~~ originated in the North-West corner of the state, and it seems to me that they are the only ones that support it. Why should the rest of us suffer for a local problem.

Thank you

Log Hauling

[illegible]

We the following individuals protest the intended passage of Montana House of Representatives Bill #192 in the 1991 session of the ~~house~~ Senate, for the following reasons:

SENATE HIGHWAYS

EXHIBIT NO. 18

BASED ON 3-21-91

BILL NO. HB 192

1. It flies in the face of free enterprise.
 - a. The operator would not be able to negotiate a favorable rate because of seasonal hauling problems or other variables.
 - b. Would greatly increase the operators' administrative cost.
 - c. Would encourage the State to set maximum driving hours even though the industry has displayed a good safety record in the past.
 - d. Would encourage the State to require cargo insurance which has never been demonstrated to be necessary for such low value cargoes as logs.
 - e. Would cause delays and result in lost operating days for the operator.
 - f. Would protect the inefficient operators overtime at the expense of the efficient operator. Good operators don't need subsidized regulation.
2. It will hurt the small one-and-two truck operators who are the backbone of the log hauling industry in Montana.
3. It will encourage the mills to buy truck fleets, thus eliminating the independent contractor.
4. It will further enlarge an already inflated state bureaucracy at the expense of all Montana taxpayers.

In conclusion, the lumber market determines what the mills can pay at any one time for delivered logs, so that, if log hauling rates were too high, other phases of logging would see price cuts. It just is not practical for a state bureaucracy to set rates.

NAME	PHONE NUMBER
Art Perry	388-6714
Leroy & Jacques Christoffersen, Missoula	549-2039
Jim Blue - Jim Blue Trucking, Darby, Mt.	821-4782
Ken Kolbert Box 113, Darby, Mt.	821-4429
Bill Noble Box 676 Darby, Mt.	821-3637
Al & Pat Hoyt Box 557 White Sulphur Spring	547-3806
Joe Burke Box 281 Townsend	266-3352
Don Libmuck Box 75 Gallatin Gateway	763-4350
Ernie R. Torrey 5516 7th St. Bozeman, Mt.	246-3857
Lee Walker 8260 River Rd. Bozeman	587-5398
Doug Gussel PO Box 192 White Sulphur Spring	547-3843
Ron Johnson 790 Damsell Rd. Bozeman	585-8813
Richard Duncan 527 S. Oakes Helena	443-4642
J.C. Lowman Box 343 White Sulphur Springs	547-3443
Jack Mahon Box 1194 Townsend	266-3806
Floyd W. McLubbin Box 83 Hungry Horse	387-5770
Glenn W. Carlson 735 Greenan Hill Rd. Kal	755-2779
John Bowditch 300 Bowditch Rd. Kal	752-3221
Mark Ryan Box 4612 Helena, MT	443-6222
HOWARD DREW Box 245 White Sulphur Springs	547-3940
LYLE BAIST 71 CRYSTAL LAKE LIBBY	293-3508
Wm. Curry Thompson Falls	927-3494
Thomas R. Kelly Phoenix, MT	826-5630

EXHIBIT NO. 19DATE 3-21-91BILL NO. HB 192WITNESS STATEMENT

To be completed by a person testifying or a person who wants their testimony entered into the record.

Dated this 21 day of March, 1991.

Name: Wanda Normandeau

Address: 33 Vermillion Pt Rd
Thompson Falls, MT

Telephone Number: \$ 827-4656

Representing whom?

Self - owner-operator of Log truck

Appearing on which proposal?

HB 192

Do you: Support? Amend? Oppose? X

Comments:

This legislation will not benefit
the entire State of Log haulers -

Please encourage having the
existing logging contracts legally
open for public review after they
have been signed. That way any hauler
who needs to find out his loggers hauling
rate can stop in the mill and read
the contract, and find out what he
can expect - even having some recourse
on paper - All of the contracts are presently
already on file at the mill - all we
need is that simple legal clarification.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

If log haulers have to publish their rates - why not
just publish the original contract!

WITNESS STATEMENT

To be completed by a person testifying or a person who wants their testimony entered into the record.

Dated this 21 day of March, 1991.

Name: DAN NORMAN/DEAY of NORMAN/DEAY Trucking

Address: Box 1149 T. Falls 59873

Telephone Number: 827-4764

Representing whom?

NORMAN/DEAY Trucking

Appearing on which proposal?

192

Do you: Support?

Amend?

Oppose? X

Comments:

I am Dan Norman/Deay of Norman/Deay Trucking Thompson Falls.

I have read this Bill and understand its intent to make a better log hauling rate.

However taking away my personal right to negotiate with my contractor privately under our own terms is NOT going to make me more money.

The independent free enterprise system of which we all work by now, already abuse us to make about 50% I am going to get out of that piece of tree.

I also understand the desire to keep Bigger Trucking operations from under cutting us independent operators, who ever this Bill will not stop that because all the big companies have to do is prove they can haul it cheaper and force the rate

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY down state wite. I can not see how Bill 192 is going to help log hauling in Montana Thanks you.

SENATE HIGHWAYS

EXHIBIT NO. 21

DATE 3-21-91

BILL NO. HB 192

PETITION

We, the undersigned, understand that House Bill 192 is important for the economic viability of the log trucking industry.

We strongly support this bill and encourage your support also.
Thank you.

1. Paul M. Schiff
2. Marvin L. Fisher
3. Brett Carl Cislowski
4. Deel McManus
5. William D. Palmer
6. Matt Richards
7. W. D. Hovins
8. Edward J. Klein 312 Solberg Dr. Kalispell 2/17
9. M. J. Longtin 340 Kingsway Kal. Mt.
10. Gregory Paskell 475 No. Main Kalispell, Mt.
11. Ronald L. Smith BEACON TIRE CENTER 142ND AVE E. POKEA, MT.
- 12.
- 13.
- 14.
- 15.
- 16.
- 17.
- 18.
- 19.
- 20.
- 21.
- 22.
- 23.
- 24.

petition from Livingston
supporting 192 inclusive
of names of people encouraged
NOT to testify. 30 signatures

We the underside support the Housebill #192
for regulation of Log truckers and for the
welfare of our jobs..

SENATE HIGHWAYS

EXHIBIT NO. 20 21
DATE 3-21-91
BILL NO. PHONE OPT: 40
192

NAME

ADDRESS

Charlene Menzen
Peggy Menzen
Died Nelson
Art Crawford
Dale Campbell
Steve Johnson
Steve Johnson
Steve Johnson
Lori Highfill
Jim Harford
Dorothy Harford
Ken Harford
Lynn Harford
P. A. Adams
Genevieve Gillman
E. L. H. Smith
Keith Machin
Lester V. Maki
K. E. Adams
Cathy Oursdale
Stephen P. Wilton
Donna Smith
M. Smith
John Smith
L. Smith

Rt 85 Box 4108 Liv.
Rt 85 Box 4108 Liv.
117 N E St.
116 N 6th Livingston
Rt 38 Box 2273
506 S 12th
Rt 85 Box 4219A
Rt 85 Box 4219A
P.O. Box 1205
Box 1205 Liv.
Box 1205 Liv.
Box 1205
Rt 62 Box 3077
Rt 62 Box 3077
Rt 62 Box 3077
Rt 62 Box 3077
102- No I Liv 31th
Rt 85 Box 4112
617 N 10th Liv MT
Box 384 Livingston
Box 115 Livingston
Rt 111 Livingston
421 S 7th Livingston

We the underside support the Housebill #192
for regulation of Log truckers and for the
welfare of our jobs..

NAME

ADDRESS

PHONE OPT:

Don Randall1318 E-38 PARK227-1621Bennie L. LaddWaldorf, Md578-2391Barbara A. Ladd624 N. 17th227-7456Harry Williams Jr.Rt 85 Box 427040222-7514Ann WilliamsRt 85 Box 427040

Have - a petition "for" 192-111 signatures (Cheney)

We, the undersigned, residing in or around FLATHEAD COUNTY, hereby request your SUPPORT for HOUSE BILL 192. We understand the importance of this bill for the economic viability of the log TRUCKING industry, and thereby request YOUR SUPPORT also.

Ex. 21
3-21-91
HB 192

1. Nina R. Aleist
2. Raymond L. Aleist
3. Ellen A. Lehman
4. Janet Masten
5. David Seibert
6. Grace Whitman
7. Bonnie Eckert
8. Calleen Harper
9. Becky McCann
10. Lois Doty
11. Lorraine Watne
12. W. L. Selston (Black Magic Truck Wash)
13. Corinne Barthel
14. Al Gray
15. Charles C. Benson
16. Jim MacKenzie
17. Jimmy Woody
18. Nina K. Laird
19. Gladys McLaas
20. John Bunnage
21. Joe Gustafson
22. Betty L. Day
23. Billie J. Arnts
24. 11 with a - H. H. H. H.

25. Dave Lipe
26. Anders Engdahl
27. ~~Wm. Lipe~~
28. John A. Sizemore
29. Zack Bummell
30. Arnie Havers
31. Barbara Biddis
32. Gary Sanford
33. Evelyn E. Schulz
34. Anita Akonenko
35. Marjorie Baxter
36. Gerry Kan
37. Joan Weber
38. Sel Lehman
39. Jerry Robinson
40. Teri Fink
41. Kathi Hornett
42. Gandy Sheffer
43. B. Jean Ferrell
44. Audrey Speer
45. Luanne Homestead
46. Betty Fink
47. Betty A. Haggan
48. Rosanna Swift
49. Barb Peterman
50. Jerry R. Standley
51. Debbie Johnson
52. Karen Nelson
53. Jacquie & Cuffe
54. Julio Bramble

Ex. 21
3-21-91
HB 192

55. Sam Brady
56. Mary Quevedo
57. Gary & Hoffman
58. Hugu Penneart
59. Sid Solie
60. Lillian Judge
61. Ross Armstrong
62. Dale Caruso
63. Barbara Solie
64. Harvey Kater
65. Ephrem Amalf
66. Mellichamel
67. David Quevedo
68. Robbie Peer
69. Berie Harsow
70. Sweeney Brady
71. Tom Shepherd
72. Dale Hagadone
73. Vernon D Fox
74. Phil Pearson
75. G.H. Brown
76. Dave Koch
77. Zini Schultze
78. James Tarnetill
79. Robin Dherwood
80. O.K.
81. Tom Tarnetill
82. Ann Baller
83. Edna Buchmiller
84. Marwan Cannon

85. Lorraine F. Myer
 86. Gerald E. Antton
 87. Audrey L. Dunne
 88. James G. Sloger
 89. John Schaubler
 90. John H. Dunne
 91. Mary D. McCann
 92. Sheila Amelley
 93. Laurie Barnes
 94. Edna LaBrie
 95. John Bate
 96. Florence Kehler
 97. Georgia McCready
 98. Cynthia M. Blake
 99. Rosetta Burke
 100. Mavis Miller
- D. Orr

WITNESS STATEMENT

To be completed by a person testifying or a person who wants their testimony entered into the record.

Dated this 21 day of MARCH, 1991.

Name: LEROY CHRISTOFFERSON

Address: 3800 S 3 W

MISSOULA, MONT

Telephone Number: 406-549-2039

Representing whom?

Christofferson Inc. (a mountain corp)

Appearing on which proposal?

H.B 192

Do you: Support? ☐ Amend? ☐ Oppose? ☒

Comments:

Regulation is for monopolies only
not log trucking

WITNESS STATEMENT

To be completed by a person testifying or a person who wants their testimony entered into the record.

Dated this 21 day of March, 1991.

Name: DAN NORMANDEAU

Address: Box 1149 Thompson Falls MT

Telephone Number: 827-4764

Representing whom?

NORMANDEAU Trucking

Appearing on which proposal?

192

Do you: Support?

Amend?

Oppose? X

Comments:

Owner Operator

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

WITNESS STATEMENT

To be completed by a person testifying or a person who wants their testimony entered into the record.

Dated this 21 day of March, 1991.

Name: Ernie Forrey

Address: 55 Jack Farm Rd
Townsend Mt.

Telephone Number: 246-3857

Representing whom?

Forrey Trucking

Appearing on which proposal?

HB 192

Do you: Support? ☐ Amend? ☐ Oppose? ☒

Comments:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

WITNESS STATEMENT

To be completed by a person testifying or a person who wants their testimony entered into the record.

Dated this 21 day of March, 1991.

Name: Lee Wilhelm

Address: 8260 River Rd.
Bozeman Mt.

Telephone Number: 587-5392

Representing whom?

Self

Appearing on which proposal?

HB 192

Do you: Support?

Amend?

Oppose? X

Comments:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

WITNESS STATEMENT

To be completed by a person testifying or a person who wants their testimony entered into the record.

Dated this 21 day of march, 1991.

Name: Jeri Blue

Address: Ref 368

Darby mt

Telephone Number: 821-4782

Representing whom?

2 in Blue Trucking

Appearing on which proposal?

HB 192

Do you: Support? _____ Amend? _____ Oppose? X

Comments:

This image shows a single sheet of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

WITNESS STATEMENT

To be completed by a person testifying or a person who wants their testimony entered into the record.

Dated this 21 day of MARCH, 1991.

Name: LYLE BRIST

Address: 71 CRYSTAL LAKE ROAD
LIBRY MONT. 59923

Telephone Number: 293-3508

Representing whom?

BRIST Logging

Appearing on which proposal?

Do you: Support?

Amend?

Oppose? X

Comments:

I OPPOSE HB 192 EVEN THO I
AM A LOGGER WHO DOES NOT
OWN MY OWN TRUCKS. I FEEL
THIS WILL FORCE ME TO BUY TRUCKS
TO HAUL MY LOGS. THUS FORCING
FURTHER HARDSHIP ON THE OWNER
OPERATORS. PLEASE SUPPORT ME
IN OPPOSING HB 192

Lyle Brist

WITNESS STATEMENT

To be completed by a person testifying or a person who wants their testimony entered into the record.

Dated this 21 day of march, 1991.

Name: Tommy E. Perkins

Address: 4130 Richmond Rd Belgrade MT 59714

Telephone Number: 406 388-1011

Representing whom?

Parkins Logging

Appearing on which proposal?

17B 192

Do you: Support? _____ Amend? _____ Oppose? ☒

Comments:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

WITNESS STATEMENT

To be completed by a person testifying or a person who wants their testimony entered into the record.

Dated this 21 day of March, 1991.

Name: Jeannette Hahn

Address: 185 Cameron BR. Rd W Bozeman MT.
59715

Telephone Number: 406 - 388 - 7270

Representing whom?

Rodney Hahn Trucking (self)

Appearing on which proposal?

HB 192

Do you: Support?

Amend?

Oppose? X

Comments:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

WITNESS STATEMENT

To be completed by a person testifying or a person who wants their testimony entered into the record.

Dated this 21 day of March, 1991.

Name: Richard Hargrove

Address: P.O. Box 397 Fallston Gateway MT. 59730

Telephone Number: 763-4746

Representing whom?

Hargrove Trucking

Appearing on which proposal?

HB 192

Do you: Support? ☐

Amend? ☐

Oppose? ☒

Comments:

This Bill is completely uncalled For

WITNESS STATEMENT

To be completed by a person testifying or a person who wants their testimony entered into the record.

Dated this 21 day of MARCH, 1991.

Name: Penny Tolleson

Address: 408 Hibernia

MISSOULA MONTANA 59801

Telephone Number: 728-1034

Representing whom?

TOLLEFSON Logging

Appearing on which proposal?

HB 192

Do you: Support? Amend? Oppose? ☒ X

Comments:

This image shows a single page of white paper with horizontal black lines, resembling notebook paper. The lines are evenly spaced and run across the width of the page. There is no handwriting or other markings on the paper.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

WITNESS STATEMENT

To be completed by a person testifying or a person who wants their testimony entered into the record.

Dated this 21 day of March, 1991.

Name: Bill Cow GER

Address: 566 HIGHWAY E, TOWNSEND NAT.

Telephone Number: 266 4240

Representing whom?

S E / F

Appearing on which proposal?

H B 192

Do you: Support? _____ Amend? _____ Oppose? ✓

Comments:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

COMMITTEE ON: HIGHWAYS AND TRANSPORTATION

DATE: 3-21-91

VISITOR'S REGISTER

NAME	REPRESENTING	BILL #	SUPPORT	OPPO
Left Doty	Doty Trucking	192	X	
Don B...	B... Trucking		X	
Ed Hankinson	Ed Hankinson Trucking		X	
Arvon Fielding	Fielding Trucking		X	
Dave Brandt	Dave Brandt Trucking	192	X	
Larry Dudley	Dudley Trucking	192	X	
Valley (Clouet)	Valley Trucking	192	X	
D. F. Adkins	Adkins Trucking	192	X	
Dean Stupp	Dean Stupp Trucking	192	X	
Ed Hankinson	ED Hankinson Trucking	192	X	
Larry Bill	ED Hankinson Trucking	182	X	
Larry Biele	" " "	192	X	
Don McManus	McManus Trucking	192	X	
Glen Matheson	Glen Matheson Trucking	192	X	
Trent Adkins	Adkins Trucking	192	X	
Jason Adkins	Adkins Trucking	192	X	
Elaine Toole	Adkins Trucking	192	X	
Arvon Fielding	Arvon Fielding Trucking	192	X	

(PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY)

COMMITTEE ON: HIGHWAYS AND TRANSPORTATION

DATE: 21 Nov 91

VISITOR'S REGISTER

NAME	REPRESENTING	BILL #	SUPPORT	OPPOS
Neil L. Meyer	SELF	192		X
Leo M. Meyer	Self	192		X
Unita Haase	Haase Trucking	192		X
David L. Haase	Haase Trucking	192		X
Red Frank	Frank Trucking	192		X
Pam Hamilton	self	192		X
Barton L. Cooper	Self	192		X
Spice M. Cooper	B.L. Cooper Inc	192		X
Donna Normandeau	Normandeau Trucking	192		X
David R. Normandeau	NORMANDEAU Trucking	192		X
David R. Normandeau	Normandeau Trucking	192		X
Ray Brown	Self	192		X
Colin L. Howard	Colin Howard & Sons	192		X
Doug Russell	Self	192		X
Jim Wakefield	Self	192		X
Lee Wilkins	Self	192		X
Verque Chiff	Self	192		X
Harold Vackelt	Self	192		X
Wald Chylak	Little Thompson Logging	192		X

(PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY)

COMMITTEE ON: HIGHWAYS AND TRANSPORTATION

DATE: 3-21-91

VISITOR'S REGISTER

[illegible]

(PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY)

COMMITTEE ON: HIGHWAYS AND TRANSPORTATION

DATE: 3-21-91

VISITOR'S REGISTER

NAME	REPRESENTING	BILL #	SUPPORT	OPPOS
James Fowler	Jim Fowler Logging	192	✓	
Bob Duncan	Duncan Trucking	192	✓	
Bud CLINE	MLA	192	✓	✓
PAT HANLEY	Glacier Line Logging	192		
Harry Schneider	MLS	192	✓	
General Jones	MLS	192	✓	
Paul Baker	MLS	192	✓	
Dail Barnett	MLG	192	✓	
Kyle Davenport	Self	192	✓	
Reggie Jones	Self	192	✓	
Eric Weiner	Darby Lumber	192		✓
Kevin Jupp	Self	192	✓	
Walt Mitchell	Shack Logging	192	✓	
Eddy Reed	Reed Hauling	192	✓	
Roger A. Presnell	RA Trucking	192	✓	
Jerry McCully	Self	192	✓	
Ray Crutcher	Self	192	✓	
Lon Johnson	Self	192		✓

(PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY)

COMMITTEE ON: HIGHWAYS AND TRANSPORTATION

DATE: March 20, 1991

VISITOR'S REGISTER

[illegible]

(PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY)

COMMITTEE ON: HIGHWAYS AND TRANSPORTATION

DATE: 3-21-91

VISITOR'S REGISTER

NAME	REPRESENTING	BILL #	SUPPORT	OPPOS
Jim Kristensen	Self	HB 192		X
Ken Starn	Self	192		X
Edna Elliott	SELF	192		X
Arthur Perry Sr	Self	192		X
Don Derby	Self	192		X
Mr. Cuddy	Self	192		X
John Brist	Brist Logging	HB 192		X
Dennis Almendinger	Self	192		X
LANNIE BYLER	Self	192		X
Richard Hargrove	Hargrove Trucking	192		X
Don Womack	Self	192		X
Ge Bode	Self	192		X
DARON DUNAW	RY Timber	192		X
Jack Mahon	" "	192		X
J.C. Lowman	Self	192		X
Bill COUGER	SELF	192		X
HOWARD DIXON	DIXON & DIXON Post-Box	192		X
John Hansen				X
Bob Hart		192		X

(PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY)

COMMITTEE ON: HIGHWAYS AND TRANSPORTATIONDATE: 3-12-91

VISITOR'S REGISTER

NAME	REPRESENTING	BILL #	SUPPORT	OPPOS
Alvin Hatz	Self	192		X
Byrd Hatz	Self	192		X
Bohny Hahn	Self	192		X
Tracy E. Perkins	Perkins Logging & Self	192		+
Marionette Hahn	Bohny Hahn Trucking	192		X
Alvin E. Housell	Self	192		X
Tommy Tollerison	TOLLERSON LOGGING	192		X
Ed Reeser	Ed Reeser Trucking	192		X
Ernie Torrey	Torrey Trucking	192		X
Harold V. Barker	Byronia Mountain Lumber, Inc.			X
Bru Noble	Stoltze - Conner	192		X
Harvey Christofferson	Christofferson INC	192		X
Ray Anderson		192		X
Harry Hobegg	SELF	192		X
Paul Fisher	Fisher Trucking	192		X
George C. Hauld	Hauld Trucking	192		X
Dean Vaught	Vaught Trucking	192		X
Floyd McCubbins	Stoltze Land & Lbr.	192		X
John Bowditch	Private Land owner	192		X

(PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY)

DATE 21 March 91

COMMITTEE ON Highways and Transportation

VISITORS' REGISTER

[illegible]

(Please leave prepared statement with Secretary)

MINUTES

MONTANA SENATE 52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON HIGHWAYS & TRANSPORTATION

Call to Order: By SENATOR CECIL WEEDING, Chairman, on March 26, 1991, at 3:00 p.m.

ROLL CALL

Members Present:

Cecil Weeding, Chairman (D)
Betty Bruski, Vice Chairman (D)
Bill Farrell (R)
John Harp (R)
Jerry Noble (R)
Jack Rea (D)
Lawrence Stimatz (D)
Larry Tveit (R)

Members Excused: Francis Koehnke (D)

Staff Present: Paul Verdon (Legislative Council).
Pat Bennett, Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Announcements/Discussion: None.

HEARING ON HOUSE BILL 37

Presentation and Opening Statement by Sponsor:

REPRESENTATIVE ERVIN DAVIS, District #53, stated House Bill 37 is the same bill that has been before the Committee in 1987 and in 1989. The main difference with this bill is that it asks that the provision will be on a permanent basis to allow the seed potato growers some stability. The bill will require the haulers to have a permit, exemption will be restricted to haulers of seed potatoes and that the intent of the bill will be to allow the Department of Highways to route or re-route the haulers.

Proponents' Testimony:

EVERITT FOUST, Moiese, Montana, testified in support of HB 37. (SEE EXHIBIT 1)

JAMES TREWEEK, Kalispell, Montana, testified in support of HB 37. (SEE EXHIBIT 2) He also submitted written testimony from Steve Streich. (SEE EXHIBIT 3)

ROBERT SNELL, Kalispell, Montana, testified in favor of HB 37. (SEE EXHIBIT 4) Mr. Snell submitted written testimony from Dale Orem. (SEE EXHIBIT 5)

HERB KOENIG, Kalispell, Montana, gave his testimony supporting HB 37 along with a map and other charts. (SEE EXHIBIT 6)

JOHN CRUMLEY, McCallister, Montana, expressed support for HB 37 stating they have raised seed potatoes in that area since 1950.

DON LAKE, Lake County, testified in favor of HB 37. (SEE EXHIBIT 7)

MIKE SUN, Seed Potato Specialist with Montana State University, stated they support HB 37 and distributed a directory published by MSU. (SEE EXHIBIT 8) The Montana seed potato growers produce the nation's top quality seeds. It has grown from the production of 1.2 million pounds in 1980 to 2 million pounds in 1990. The dollar value has increased from \$10 million in 1980 to \$20 million in 1990. House Bill 37 is important to allow this growth.

BILL KIMM from the Galatin Valley testified for HB 37. He stated that approximately \$15,000 from their farm would go out of state if this highway restriction was put on. He stated they would like to see that money stay in Montana.

SENATOR KOEHNKE wished to be noted as a proponent.

Opponents' Testimony:

SENATOR BOB WILLIAMS, District #15, stated he was opposed to the idea of raising the limits for the transportation of seed potatoes. Seed potatoes are a perishable item, however there are other areas with perishable items. It is 150 miles to take hogs to market, if they need to use more trucks they do. He stated that we can not continue the highway program and continue to fund it if we allow a certain segment to come in and haul over weight. Senator Williams stated he compiled information and one instance was a potato seed hauler getting picked up for being 6,200 pounds overweight. He suggested there be a research program to see if there is a better way to transport the seed potatoes.

GARY GILMORE, Administrator of the Operations Division, Department of Highways, testified against HB 37. (SEE EXHIBITS 9 & 10)

Questions From Committee Members:

SENATOR NOBLE asked Gary Gilmore if the road restrictions are basically in Northwestern Montana.

GARY GILMORE stated there are no restrictions on the interstate. The Manhattan and Gallatin Valley people haul down 191 into Idaho.

SENATOR NOBLE stated he was surprised that the House did not put a sunset on the bill. He asked Representative Davis if it was discussed in Committee.

ERVIN DAVIS stated it came to the Senate in its original form with no amendments.

SENATOR TVEIT asked what it means "regardless of its gross weight".

GARY GILMORE stated that the intent is to allow them to operate up to the 80,000, the normal legal load, with a permit.

SENATOR TVEIT asked how much damage has been done in the last three years.

GARY GILMORE said it would be hard to say. Highway 200 is evident of the damage.

SENATOR TVEIT asked what their stipulations are for hauling the loads.

GARY GILMORE stated they are restricted to certain roads by these permits and the speed restrictions should hold as well.

CHAIRMAN WEEDING asked if the speed limit is set at the discretion of the Highway Department.

GARY GILMORE stated that is correct and one of the restrictions has been put on Highway 93.

SENATOR KOEHNKE asked what out-of-state trucks use Highway 93.

GARY GILMORE said the tickets they have written and the trucks are east bound to the Crow Agency or westbound to the Crow Agency, they are coming into the state and they are not leaving at Wibaux.

SENATOR KOEHNKE stated that the haulers are not asking to haul over, they want to know what is legal to haul.

GARY GILMORE said they do know that the haulers are coming into Montana from Canada and are taking advantage of the relaxed regulations.

SENATOR FARRELL explained that the haulers are coming from Canada running the two-lane roads where there is frost thaw and they would be restricted to Highway 74 or 280. They are getting picked up at Wibaux or Crow Agency, using this exemption from Canada instead of using the interstates and using the scales.

Closing by Sponsor:

REPRESENTATIVE DAVIS stated that there is no other speed restriction other than the 55 mph. He said he was surprised about the over-weight tickets. At his request, the GVV sent copies of every ticket written up during the last spring break up. Of all the citations, not one was for an over-weight seed potato truck. The highway supervisor from Missoula testified in the House Highway Committee that to his knowledge this last spring there were no damage. The damage is from the spring frost thaw.

HEARING ON HOUSE BILL 557

Presentation and Opening Statement by Sponsor:

REPRESENTATIVE BOB REAM, District #54, stated that HB 557 deals with the part of the statutes where provisions are made for disabled veteran's license plates and prisoner of war license plates. Representative Ream explained that a constituent of his, Lewis Elliott, who is 100% disabled as well as a prisoner of war, has been buying the prisoner of war plate with his own POW number on it. The last time he went to get his plates, he was told he would have to make a choice between the disabled veteran plate which costs \$5 or the POW plate at the regular rate. The bill will allow a disabled veteran to buy the POW plate at the disabled veteran rate.

Proponents' Testimony:

RICH BROWN, Administrator of Montana's Veterans Affairs Division, testified in support of HB 557. (SEE EXHIBIT 11)

PETER FUNK, Assistant Attorney General, stated they support HB 557. He stated that under the statute it was not possible for a person to pay the disabled veteran rate and obtain an optional plate. On behalf of the Department of Justice, there is no concern with the bill. He stated there is a coordination instruction amendment to propose for HB 557. (SEE EXHIBIT 12) There is a conflict with HB 557. The statute in sections 1 and 2 are recodified under SB 191. Amendments were put onto SB 191 and have passed the House Committee, however at this time the bill has not been acted on the floor.

PETER FUNK stated that the House is pending action until the appropriation part is taken care of. The proposed amendment to HB 557 states that if SB 191 passes, then sections 1 and 2 of HB 557 should be stricken. Section 3 of HB 557 could not be built into SB 191 because it is not recodified.

Opponents' Testimony:

None.

Questions From Committee Members:

SENATOR FARRELL asked Representative Ream if he had any problems with the Department of Justice's proposed amendment.

REPRESENTATIVE REAM said it was the first he had heard of it, however he did not have any problem with it.

SENATOR FARRELL stated that SB 191 called for a decal for special plates, under HB 557 would they still be able to purchase a plate?

PETER FUNK stated it would be the decal instead of a special printed plate. The amendments will allow a disabled veteran, at their option, to be able to get the POW decal plate or the handicapped decal plate.

REPRESENTATIVE REAM stated he was not aware that it would be a decal and not a printed plate.

PETER FUNK stated a veteran would be able to get a plate with POW and the number along with a decal in the corner.

RICH BROWN stated that there are many special plates being passed this session, and it was the Veteran Affairs Division's understanding that it would be for special printed plates and not decals.

SENATOR FARRELL asked Rich Brown and Peter Funk to get together regarding the plate and decal procedure.

CHAIRMAN WEEDING stated that he understood that the plate would be available as a personalized plate but would cost \$25.

PETER FUNK said that was correct. They can get that plate by paying \$25, but it is not the intent of the Department to have that done in order to obtain the POW plate.

Closing by Sponsor:

REPRESENTATIVE BOB REAM closed the hearing on HB 557.

HEARING ON HOUSE BILL 570Presentation and Opening Statement by Sponsor:

REPRESENTATIVE JIM RICE, District #43, opened the hearing on HB 570. This bill addresses several functions of the Motor Vehicle Division of the Department of Justice. Sections 1 and 3 address the problem of the Division receiving a report that a person no longer has the ability to drive. By law the Division must follow up and the only option they have is to notify the person to retake the examination. The bill will allow the Division to have an investigation. Section 2 reclarifies the liability of when a minor applies for a driver's license. It will clear up the problem of a minor applying for a license requiring that the parents sign. In the case of divorce, it has created difficulties in getting a parent's signature. This section allows that a "responsible adult" be the person to sign off for the minor. Section 4 addresses the responsibility for people who are caught with driving offenses from out of state. It will allow those in the Department trying to take action against the out-of-state person to refer it back to the jurisdiction of where the person is from. (SEE EXHIBIT 13)

Proponents' Testimony:

PETER FUNK, Assistant Attorney General, stated they support HB 570. There are three primaries in the bill. Sections 1 and 3 are linked together. In the existing statutes, section 1 concerns a provision in title 37 which allows medical doctors to report when they have a concern about a licensed driver and report it to the Department of Justice. The statute embodied in section 3 tells the Department of Justice what to do when they get this type of report. With the existing statutory language focused on the term "examination" there is an argument out there that the Department does not have any right to ask the licensed driver to provide additional information. This bill is an amendment to the statutes to conform to the existing practice. Section 4 eliminates the State of Montana taking licensing actions against a nonresident when a traffic citation is received in Montana. Under the existing language the Department is required to suspend the privilege to drive if the out of state driver commits an offense. A nonresident who has been suspended by Montana is required to be physically present in the State of Montana. For example, in order to get back your driver's license for a DUI you have to attend court school. The Department feels that the Department of Licensing needs a report that this person has committed this particular offense in Montana and let that person have their license suspended in their own State. This change will do nothing in terms of the criminal sentence that is imposed by the sentencing court. This is an administrative licensing action. Section 2 requires that an adult sign for a minor, which is imputed liability on that adult who signed the minor's driver's license.

PETER FUNK informed the Committee that the statutes have not been amended for years. They really don't reflect, whether fortunate or unfortunate, that there are numerous adults divorced with joint custody. Mr. Funk stated that when the parents are still warring over the divorce and one approves and the other does not approve the driver's license, the person who suffers is the minor. In section 2, it asks for a signature from one of the parents or a responsible adult. The insurance agencies are not opposed to this bill. They do not feel that this change will effect the liability.

Opponents' Testimony:

None.

Questions From Committee Members:

None.

Closing by Sponsor:

REPRESENTATIVE RICE closed the hearing on HB 570.

HEARING ON HOUSE BILL 638

Presentation and Opening Statement by Sponsor:

REPRESENTATIVE TED SCHYE, District #18, stated that HB 638 is a repealer dealing with deregulation of the airlines. There are many regulations on the books which deal with aeronautics and the airlines that don't apply anymore. (SEE EXHIBIT 14)

Proponents' Testimony:

MIKE FERGUSON, Administrator of the Aeronautics Division, stated the repealer relates to the Aeronautics Board's previous quasi-judicial authority over airline certificates of public convenience and necessity. These statutes are moot since 1978 airline deregulation act and has been upheld in the courts of appeal as well from other states who have challenged these.

Opponents' Testimony:

None.

Questions From Committee Members:

None.

Closing by Sponsor:

REPRESENTATIVE SCHYE closed the hearing on HB 638.

EXECUTIVE ACTION ON HOUSE BILL 638

Motion:

SENATOR HARP MOVED that HOUSE BILL 638 BE CONCURRED IN.

Discussion:

SENATOR HARP will carry HB 638.

Recommendation and Vote:

MOTION PASSED UNANIMOUSLY that HB 638 BE CONCURRED IN.

EXECUTIVE ACTION ON HOUSE BILL 570

Motion:

SENATOR NOBLE MOVED that HB 570 BE CONCURRED IN

Discussion:

SENATOR NOBLE will carry HB 570.

Recommendation and Vote:

MOTION PASSED UNANIMOUSLY that HB 570 BE CONCURRED IN.

HEARING ON HOUSE BILL 705

Presentation and Opening Statement by Sponsor:

REPRESENTATIVE PATRICK GALVIN, District # 40, informed the Committee that his bill exempts a locomotive engineer when involved in an accident with a motor vehicle at a grade crossing from being required to show his driver's license. Noting such accidents on an engineer's driver's license record can cause his personal automobile insurance premiums to increase.

Proponents' Testimony:

DAVE DITZEL, representing the locomotive engineers, stated HB 705 is a simple bill which will take care of a problem the engineers have experienced in Montana. When an engineer has been involved in an accident as a kind of fluke, it will eliminate the problems he might have with his own insurance. Mr. Ditzel also submitted a letter from PAT KEIM, representing Burlington Northern Railroad, in support of HB 705. (SEE EXHIBIT 15)

RAYMOND WEST, representing the United Transportation Union, stated he could verify that in the 40 years of railroading, there have been quite a few grade crossing accidents. There needs to be the privacy of the engineer's automobile driver's license. The purpose is so that engineer's insurance is not affected by an accident on the train.

Opponents' Testimony:

None.

Questions From Committee Members:

SENATOR REA asked how often this occurs.

RAYMOND WEST stated that they have grade crossing accidents quite often. When the Highway Patrolman comes to investigate the situation he will ask for the driver's license of the crew on the train.

DAVE DITZEL showed the Committee what his locomotive engineer license looked like. He stated they do not object to having to show that license in the event of an accident.

PAUL VERDON stated that subsection D on page 2 has been stricken from the bill. This applies to maintenance of way activities. However, it has not been removed from the title.

REPRESENTATIVE GALVIN said it was not intentionally left in the title. Maintenance of way activities should have been stricken from the title.

CHAIRMAN WEEDING asked if it affected the right of way employees who burn weeds, etc.

REPRESENTATIVE GALVIN stated that their maintenance of way people are included.

PAUL VERDON stated that on page 3, maintenance of way activities is still mentioned on line 5.

DAVE DITZEL explained that the part that was stricken was necessitated because of the fact that it would have impaired some federal funding. When it was determined that this section would need to be stricken they also wanted to make a provision to include the maintenance of way people in the bill. He stated it was their intention to include railroad maintenance of way activities on page 3, line 5.

SENATOR REA asked if with regard to the stricken language, will it allow an operator to drive a truck that is used for repairs with the maintenance of way?

DAVE DITZEL stated it would only if he is on the railroad right of way. If he were operating a maintenance of way truck in downtown Helena and had a collision he would then be subject to any of the civil laws.

SENATOR TVEIT stated that under this bill, where it says "in connection with railroad maintenance of way activities" it will allow any maintenance of way employee driving that truck down the road to not be required to have a driver's license.

REPRESENTATIVE GALVIN clarified that the reason for the bill is to keep the locomotive engineer from displaying his driver's license at an accident. He stated that the part Senator Tveit speaks of could be stricken.

RAY WEST said it was not intended for only engineers, but rather the crew also to be exempt. The brakeman, who gives a statement to the highway patrolman should not have to reveal his driver's license.

SENATOR NOBLE asked Paul Verdon to respond to the language.

PAUL VERDON stated that the railroad maintenance of way could be stricken. The intention was taken out of subsection b, page 2 but was left in on page 3.

REPRESENTATIVE GALVIN explained that when they refer to a locomotive engineer, brakeman, or railroad utility person, or a member of a locomotive crew they are called operating employees. They are employees who operate a moving train and they are the ones this bill addresses.

CHAIRMAN WEEDING stated the Committee may want to strike on page 3, lines 4 and 5 "or in connection with railroad maintenance -of-way activities".

Closing by Sponsor:

REPRESENTATIVE GALVIN closed the hearing on HB 705.

EXECUTIVE ACTION ON HOUSE BILL 705

Motion:

REPRESENTATIVE NOBLE MOVED that HB 705 BE CONCURRED IN AS AMENDED.

Discussion:

SENATOR NOBLE will carry HB 705.

Amendments, Discussion, and Votes:

SENATOR HARP MOVED to ADOPT THE AMENDMENTS TO HB 705. (SEE EXHIBIT 16)

MOTION PASSED UNANIMOUSLY.

Recommendation and Vote:

MOTION PASSED UNANIMOUSLY that HB 705 BE CONCURRED IN AS AMENDED.

EXECUTIVE ACTION ON HOUSE BILL 192

Motion:

SENATOR HARP MOVED that HB 192 BE CONCURRED IN.

Discussion:

CHAIRMAN WEEDING informed the Committee that each member had additional handouts on HB 192. (SEE EXHIBITS 17, 18 & 19)

Recommendation and Vote:

MOTION FAILED ON A ROLL CALL VOTE of 6 opposing and 3 for the bill.

EXECUTIVE ACTION ON HOUSE BILL 62

Motion:

SENATOR FARRELL MOVED that HB 62 BE CONCURRED IN AS AMENDED.

Discussion:

SENATOR NOBLE explained to the Committee that a passenger mud or snow tire or an all season tire have the same emblem which is "M & M". He suggested to put in the bill passenger mud and snow tire, it would be up to the judgment of the highway patrolman.

Amendments, Discussion, and Votes:

SENATOR NOBLE MOVED to ADOPT AMENDMENTS TO HB 62. (SEE EXHIBIT 20)

Recommendation and Vote:

MOTION PASSED UNANIMOUSLY that HB 62 BE CONCURRED IN AS AMENDED.

EXECUTIVE ACTION ON HOUSE BILL 763Discussion:

The Committee discussed the amendments submitted by Gail Gray of OPI. (SEE EXHIBIT FROM 3-19-91) Paul Verdon informed the Committee that HB 763 and HB 560 are conflicting. HB 560 amends 61-2-406 and HB 763 repeals that section of the law. Paul Verdon stated that Jim Burnett was present to comment.

JIM BURNETT, Motorcycle Training Coordinator, OPI, stated that with regard to the conflict, HB 763 melds the motorcycle training program into the traffic education legislation. This will offer advantages to the program. HB 560 is sponsored by a statewide motorcycle organization which moves motorcycle endorsement money into the motorcycle training program. There is a concern that if HB 560 which moves motor cycle endorsement money to this program passes, there will be nothing to move it to.

PAUL VERDON informed the Committee that Gail Gray's amendment strikes "classroom instruction" on page 4, line 23, and on page 5, line 6 replaces "instruction" with "instructors" and it restores the section that repealed the termination date which would make the legislation permanent. Gail Gray said there was opposition to put in language making it permanent. Mr. Verdon suggested to put in language stating "to eliminate the termination of the motor cycle safety program".

SENATOR FARRELL stated that if HB 763 is amended and it goes back to the House and is rejected, it will go to a conference committee which allow these people to see how HB 560 is.

JIM BURNETT stated he is in touch with those who are proposing HB 560. He stated he will inform them of the conflict, and have them coordinate their bill. Representative Stang is the sponsor of both bills and should be able to coordinate the two in the House.

CHAIRMAN WEEDING said the Committee had the option of passing the bill as is or to try to put in coordinating language.

Motion:

SENATOR FARRELL MOVED that HB 763 BE CONCURRED IN AS AMENDED.

Amendments, Discussion, and Votes:

SENATOR FARRELL MOVED to AMEND HB 763 on page 4, line 23 striking "classroom instruction" and on page 5, line 6 striking "instructions" and insert "instructors".

MOTION PASSED UNANIMOUSLY.

Recommendation and Vote:

MOTION PASSED UNANIMOUSLY that HB 763 BE CONCURRED IN AS AMENDED.

EXECUTIVE ACTION ON HOUSE BILL 37

Motion:

SENATOR TVEIT MOVED that HB 37 BE CONCURRED IN AS AMENDED.

Discussion:

SENATOR NOBLE stated he would like to see a break down of the violations to see if it is out-of-state trucks who are doing the damage or in-state trucks.

Amendments, Discussion, and Votes:

SENATOR NOBLE MOVED TO AMEND HB 37 with a two-year sunset.
(SEE EXHIBIT 21)

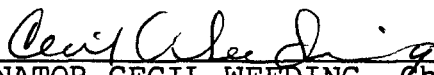
MOTION PASSED UNANIMOUSLY.

Recommendation and Vote:

MOTION PASSED ON A 7-2 VOTE, WITH Senator Farrell and Senator Noble opposing.

ADJOURNMENT

Adjournment At: 5:45 p.m.


SENATOR CECIL WEEDING, chairman


PAT BENNETT, Secretary

9

ROLL CALL VOTE

SENATE COMMITTEE HIGHWAYS AND TRANSPORTATION

Date 3-26-91 Bill No. HB192 Time 5:00 pm

NAME	YES	NO
SENATOR FARRELL	✓	
SENATOR HARP	✓	
SENATOR KOEHNKE		✓
SENATOR NOBLE		✓
SENATOR REA		✓
SENATOR STIMATZ		✓
SENATOR TVEIT		✓
SENATOR BRUSKI, VICE CHAIRMAN	✓	
SENATOR WEEDING, CHAIRMAN		✓

PAT BENNETT
Secretary

SENATOR WEEDING
Chairman

Motion: _____

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 27, 1991

MR. PRESIDENT:

We, your committee on Highways and Transportation having had under consideration House Bill No. 763 (third reading copy -- blue), respectfully report that House Bill No. 763 be amended and as so amended be concurred in:

1. Page 4, line 23.

Strike: "classroom instruction"

2. Page 5, line 6.

Strike: "instructions"

Insert: "instructors"

Signed: 
Cecil Weeding, Chairman

Jan 3-27-91
Ad. Coord.

SP 3-27 8:15
Sec. of Senate

Mr. Chairman, members of the committee:

My name is Everitt Foust, I have lived in Moiese Montana since 1934. Our family corporation is known as Foust Farms Inc and since 1965, our principal crop has been certified potatoes. I currently serve as Montana's representative on the National Potato Board, whose function is to promote potato consumption world wide.

Certified potato seed production in Montana has become one of the top money crops in the state. Montana growers produce approximately two million hundred weight of potatoes annually at a value of between \$15 million and \$20 million dollars. The industry, made up of between 60 and 70 entities, employ between 10 and 35 fellow Montanans per entity. The estimated annual payroll amounts to several million dollars.

My family and I strongly recommend passage of H.B. 37 for the following reasons:

1. Almost all seed grown in the state has to be exported to other states, usually via commercial trucks. By being able, because of the provisions of this bill, to ship maximum legal loads, Montana growers can remain competitive with neighboring seed producing states on freight rates.
2. There is no other time of year that potato seed growers are able to ship their product. Since this product is perishable and purchasers require delivery during this approximately 30

day shipping season, this bill appropriately addresses this concern in a reasonable and responsible manner.

3. It has been intimated that this bill favors only out of state trucking interests. This is not correct. Several growers own their own trucks and deliver seed out of state, other Montana truckers also haul seed out of state during the shipping season.
4. It has also been suggested that growers do not pay their fair share of road tax. This also is not correct. In Lake County where I reside, approximately 15 growers license over 100 trucks, for an average of nearly seven trucks per grower. I know of no other agricultural enterprise that compares with that number. Most of these trucks are only on local roads during the fall harvest season of approximately 25 days. I would suggest that potato growers more than pay their way.
5. Another concern states that other Montana trucking interests are disadvantaged since they are precluded from hauling maximum legal loads during this same restrictive period. I would submit that other trucking interests enjoy unrestricted road use for most of the year and possibly contribute to far more road wear and tear than do potato haulers during the 30 or so days we use the highways.
6. Because of the combined efforts of Dr. Mike Sun and his staff,

Ex. 1
3-26-91
HB 37

the Montana Potato Improvement Assn, the 1989 legislative appropriation for potato research, and individual grower participation, Montana enjoys national recognition as possibly the best and foremost seed producing state in the United States as well as Canada. Please support this vital Montana industry by passage of this bill.

Thank you for your consideration and your time.

Sincerely,

A handwritten signature in cursive script, appearing to read "Everitt Foust".

Everitt Foust

March 25, 1991
SENATE HIGHWAYS

EXHIBIT NO. 2
DATE 3-26-91
BILL NO. HB 37

Reference to H. B. 37

Mr. Chairman and Members of the Committee:

My name is James Treweek. I raise certified seed potatoes in the Kalispell area. My father became a seed grower about 40 years ago.

I ship my seed potatoes to several states in the northwest. I am proud of Montana's reputation and the quality of our product. We work very closely with the Montana State University and through their many testing programs and field inspections, Montana growers yearly produce high quality certified seed potatoes that are in high demand.

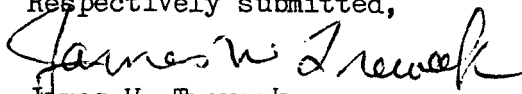
Montana has a disadvantage in the seed potato market because of greater shipping distances to many commercial growing areas. Currently, commercial and other certified seed growers are willing to pay the freight costs because of our quality. However, if it becomes necessary to ship smaller loads, total freight cost to buyers will increase significantly. This could result in lost sales and dollars to both the Montana growers and local and state business.

Because potatoes are a perishable commodity and very susceptible to frost, it is necessary for us to move them very rapidly by using the shortest routes available. Our shipping dates are determined by planting time in other areas. This makes it necessary for us to start shipping early when weather is often less than cooperative. We are also limited to a very short period of time in which these potatoes must be shipped or they are of no value as certified seed.

For these reasons, we worked with the Legislature four years ago to adopt special rules for shipping during the time of load limits on state roadways. Our truckers and buyers have been very appreciative of your special consideration in the past. I personally monitor my loads by following the trucks to the scales to assure that they are not over loaded and are within legal limits.

I am thankful for the understanding of the state legislature during the past 2 sessions in lifting road restrictions so that we can move our potatoes quickly. I ask for your continued support of a law which the growers have tried to monitor very carefully. It is crucial to the seed potato industry. The Montana certified seed potato industry creates about 15-20 million dollars of revenue to Montana's economy annually.

Respectively submitted,


James W. Treweek
Kalispell seed grower

March 25, 1991

Reference to HB37:

Mr. Chairman and Members of the Committee:

My name is Steve Streich. My father and I raise certified seed potatoes in the Flathead Valley.

I am concerned about being able to move my product to market. Seed potatoes must be moved during a very short time period beginning in March. If I am forced to scale back on the size of my loads, it will require many additional trucks to move my crop. The additional costs imposed upon Montana Seed Potato Growers would make it more difficult for us to remain competitive.

Other seed producing areas, such as Idaho, North Dakota, Oregon, and Canada would become more attractive to our present customers. Jobs and revenues for the state of Montana would be lost.

Please support HB37.

Respectfully,



Steve Streich

March 24, 1991

SENATE HIGHWAYS

EXHIBIT NO. 4

DATE 3-26-91

BILL NO. HB 37

Highway Commission Committee Members:

I am a 3rd generation certified seed potato grower in Flathead County and am concerned about how restrictions on seed potato trucks will affect my ability to market my crops.

Our buyers are located in Washington, and call for shipment of the seed potatoes after their ground is prepared & they are ready to plant the potatoes. Our buyers ask for shipment beginning the first or second week of April each year. The seed cannot be sent in advance as they have no storage for seed as the cost would be prohibitive for just 30 days, and they can easily get shipments as they need them. Most Washington growers are finished planting by the end of April..tapering off completely in May. So any seed potatoes not moved in those two months have missed the seed potato market.

Standards in the potato industry is to sell in lots of 500 hundredweight. Since the trucks weigh in at approximately 30,000 lbs. unloaded, our ability to sell our seed potatoes are at risk unless they can travel with that amount. And many buyers will buy only two loads.

These are special trailers that these trucks are pulling. They need to be sent from the other end and because they are unique to this industry they come over empty. Neither the buyer nor the trucker would want to come into Montana if, besides being loaded only one way, they also had to travel light..especially just for a few miles out of a 400 mile trip. Because I'm situated 10 miles East of Kalispell on Lake Blaine Road, in order for trucks hauling my seed to get to Hwy 93, they need to travel 8 miles on Montana 35, a restricted State Highway.

I hope you'll consider these problems I have as a grower trying to compete in the seed potato market, while reviewing this legislation.

Sincerely,



Robert S. Snell
875 Lake Blaine Road
Kalispell, Mt 59901
Phone: 755-4459

MARCH 24. 1991

REFERENCE TO H.B. 37:

SENATE HIGHWAYS

EXHIBIT NO. 5

DATE 3-26-91

BILL NO. H.B. 37

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE:

My name is Dale Orem, and my farm is located in the northeastern part of the Flathead Valley.

As a new grower trying to establish myself in the seed potatoe business, this bill has tremendous impact on the future viability of my operation.

In explanation of my need as a seed potatoe grower to be able to get fully loaded trucks to an unrestricted route, (my place is 16 mi. from hwy. 93 via hwy. 206 and hwy. 35). I would like to bring to your attention some of the speciality aspects of shipping seed potatoes out of the state of Montana. As potatoes are parishable and must not be exposed to freezing yet must be shipped to coincide with the planting window of the buyers. Last year I started shipping March 28 and finished up April tenth. Also the specially designed traliers used to transport potatoes must come empty from the point of destination making the freight cost already a big factor in competing with other seed producing areas, such as the Ashton area of Idaho and Canada. Last year I shipped 9 loads into southern Idaho, three loads to Oregon, and five loads into the Washington bason area.

In summery, in order for me to continue breaking into the competitive market of the seed potatoe industry, I need to be able to get to the major routes with fully loaded trucks.

respectfully

Dale Orem

March 23, 1991

Reference to H.B. 37:

SENATE HIGHWAYS

EXHIBIT NO. 6

DATE 3-26-91

BILL NO. HB 37

Mr. Chairman and Members of the Committee:

For the record my name is Herb Koenig. My brother Bob and I farm north of Kalispell. Our family has raised certified seed potatoes for approximately 50 years.

Montana has enjoyed a reputation as a premium area to buy certified disease free seed potatoes for many years. Growers ship loads of quality seed to many states in the western half of the United States.

There are approximately two million hundred-weight of certified seed shipped each year to these adjoining states. It is an industry that generates 15 to 20 million dollars of revenue each year. This is a renewable resource that is there every year and is gradually expanding. The income from the seed potatoes is spent by the seed growers in their respective areas for living, equipment, crop inputs, and labor, which helps generate business throughout the state.

There is a time window when seed potatoes have to be shipped to coincide with the buyers needs in various areas at planting time. We growers store the seed potatoes on our farms from digging in the fall until the buyers want to receive the seed starting in March. We are forced to ship during the spring when road restrictions are being enforced.

We came to the Legislature four years ago and asked for special consideration because of the perishable nature of our seed. Seed potatoes can not be allowed to freeze and should get to their destination as fast as possible once they are loaded in special trailers to transport. This is one of the reasons we ask for the shortest routes available.

One other reason was the forced scaling back of 7000 lbs. to 8000 lbs. on a standard load of 80,000 lbs. to meet road limits. This in turn meant additional freight costs, which caused some loss of sales because of these factors.

I believe that the action taken at the last 2 sessions of the legislature--that is lifting road restrictions and allowing the shortest route possible--has helped our seed potatoes move to the market in an orderly way. The buyers are appreciative and the truckers have been very co-operative for this special consideration.

We are proud of Montana's quality seed program and the tremendous working relationship between the growers and Montana State University which guides and regulates our program.

I am asking you to consider the importance of the Certified Seed Potato industry to Montana. We respectfully request the continued endorsement of a law that is vitally important to our industry and Montana's economy.

Respectfully;

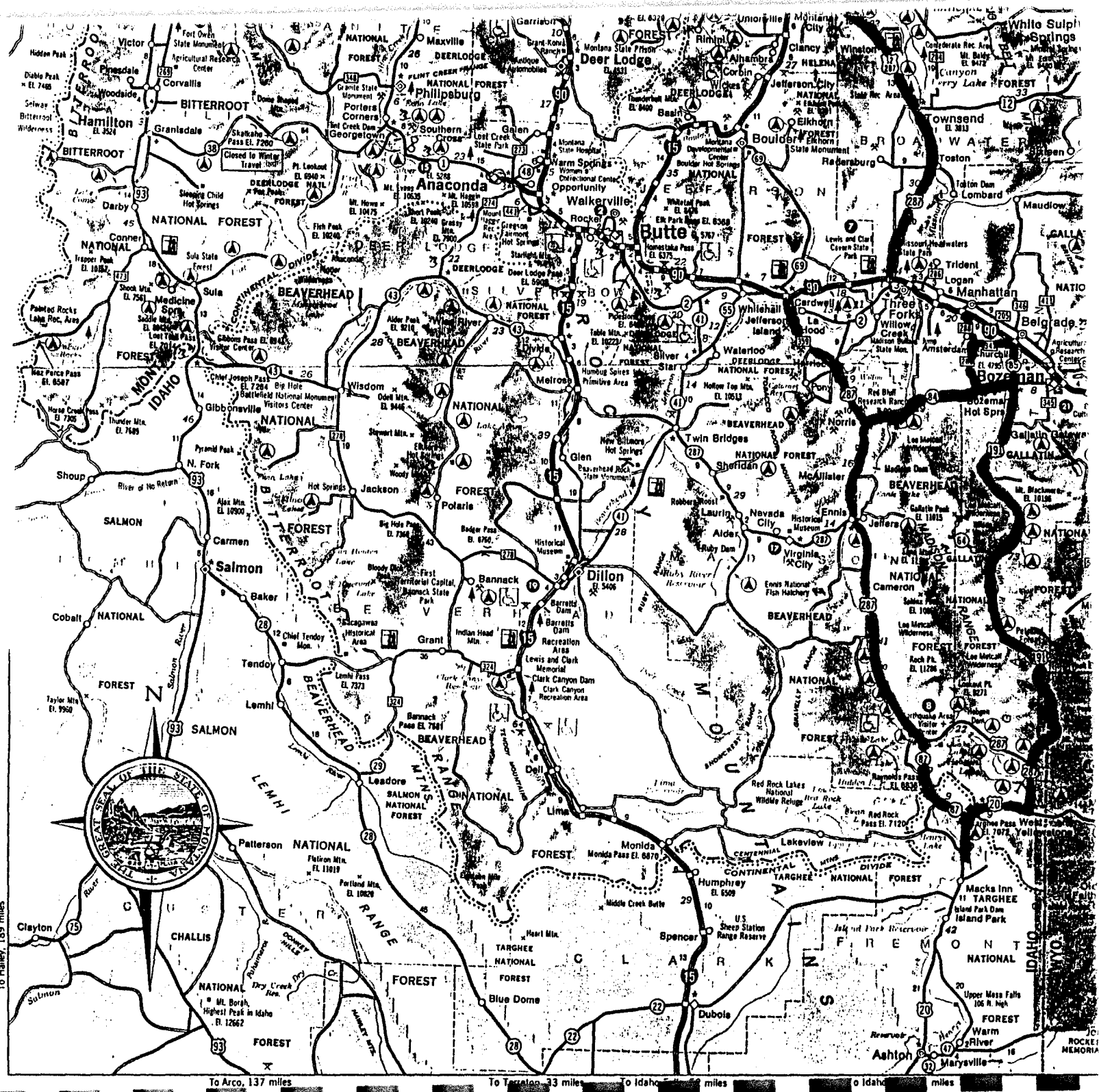
A handwritten signature in cursive script that reads "Herb Koenig". The signature is written in dark ink and is positioned below the word "Respectfully;" and above the printed name "Herb Koenig,".

Herb Koenig,
Partner, Koenig Farm

HIGHWAY MILEAGE

Hwy.	Miles
2	121
93	124
40	5
35	5
28	55
200	31
135	21
12	46
287	146
84	29
191	73
87	18
20	23
85	8

Total Miles - 705



To Haley, 189 miles

To Arco, 137 miles

To Targhee, 33 miles

To Idaho, 119 miles

To Idaho, 119 miles

To Idaho, 119 miles

To Idaho, 119 miles

GLACIER STATE PARK (D-12). Erosion by wind and water created this colorful badlands. Glendive, Frontier Gate, historic displays. Dawson College, Eastmont Services Center.

JWNA AREA (D-7). Geographic center of Montana, Heart of the Prairie Country. Rockhound, hunting, fishing, recreation. A Montana Center for the Arts.

STONE NATIONAL PARK (H-5). The oldest national park in the world and the largest within the continental United States. A world apart of natural wonders, colorful sparkling waters, interesting geysers and abundant

NTON (C-6). Founded as a fur trading post in 1846, the old fort preserved in a city park. Head of steamboat on Missouri River (1860-1887). Old steamboat National Historic Landmark. Lewis and Clark State a fine museum relates a colorful and eventful history.

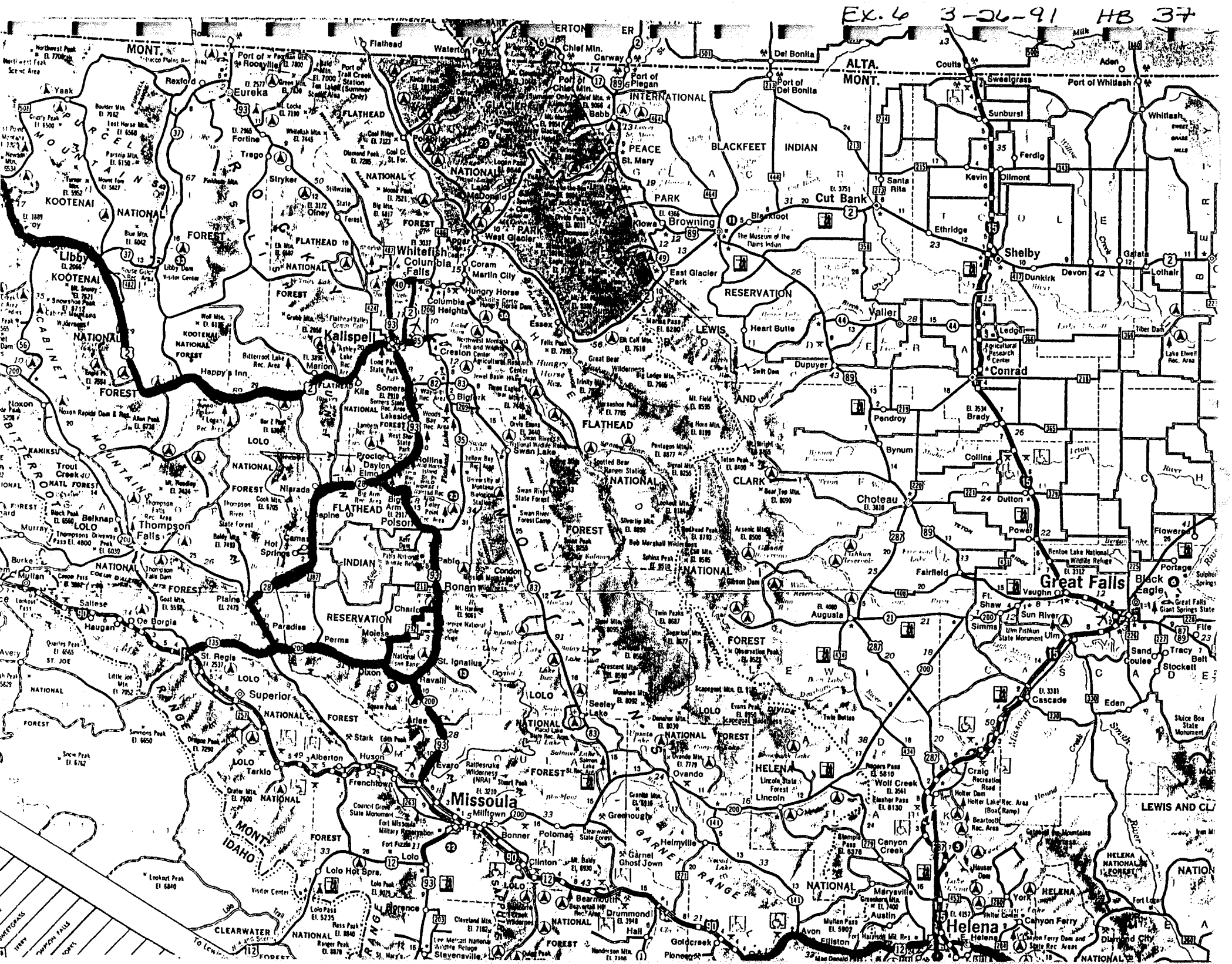
ON (F-6). Homeward bound in 1806, Captain Clark the Yellowstone River at the site which is now Livingstone gateway only winter entrance to Yellowstone Park, Dec. 7th, 4th, Trout Derby in August.

AM (B-1). A 420 feet high, 2,900 feet long multi-lake multi-purpose water resources project. Forming Lake Koocanusa. Visitors Vista, Recreation Area.

IE COUNTRY (F-10). Northern Cheyenne Craft. Authentic Indian arts, crafts and tribal camping, including teepees.

(A-11). Daniels County Museum consists of a re-creation of the early 1900's. Includes homestead ranch, school, stores, also antique tractors, farm cars and trucks.

HORSE DAM (B-2). A 564 ft. high dam forms a reservoir surrounded by beautiful rugged mountains. Visitors recreation, boating, fishing, camping.



EX. 6
3-26-91
HB 37

SUMMARY OF MONTANA POTATOES SHIPPED 1980 - 1990

POTYRSUM

YEAR	TOTAL CWT	BLUE TAG CWT	RED TAG CWT	US#1, US#2, UNC. CWT
FY - 80	1,292,999	1,159,203	15,050	118,746
FY - 81	1,371,383	1,077,286	214,220	79,877
FY - 82	1,426,551	1,257,915	119,380	49,256
FY - 83	1,478,005	1,339,837	94,615	43,553
FY - 84	1,490,093	1,281,134	97,480	111,479
FY - 85	1,525,260	1,356,985	103,950	64,325
FY - 86	1,133,581	1,063,340	12,950	57,291
FY - 87	2,034,457	1,870,873	24,910	138,674
FY - 88	1,891,314	1,755,563	24,310	111,441
FY - 89	2,153,259	1,919,784	34,970	198,506
FY - 90	1,891,816	1,733,743	79,030	79,043

PLANT INDUSTRY DIVISION
MONTANA DEPARTMENT OF AGRICULTURE
AGRICULTURE/LIVESTOCK BUILDING
HELENA, MONTANA 59620

Ex. 6
3-26-91
HB 37

POTATO SHIPMENT REPORT-1989 CROP

PAGE 1

COMPILED October 15, 1990

GROWING AREA	GROWER NAME	NO. CERT.	US #1 CWT	US #2 CWT	UNCLASS. CWT	BLUE TAG CWT	RED TAG CWT	TOTAL CWT	SACK OR CART. CWT	BULK CWT	% BULK	FEES	ADD. FEES	TOTAL FEES
KALISPELL		140	0	0	1350	63765	1870	66985	0	64795	97	2684.60	0.00	2684.60
		16	0	0	0	8490	0	8490	0	8490	100	339.60	0.00	339.60
		15	0	0	0	7100	0	7100	0	7100	100	284.00	0.00	284.00
		145	0	0	3500	67080	1500	72080	0	71580	99	2883.20	0.00	2883.20
		75	0	0	0	37250	0	37250	0	37250	100	1490.00	0.00	1490.00
		24	0	0	150	12560	0	12710	0	12710	100	511.00	0.00	511.00
		123	0	0	0	53590	9000	62590	0	62130	99	2506.80	0.00	2506.80
KALISPELL AREA TOTALS		538	0	0	5000	249835	12370	267205	0	264055	99	10699.20	0.00	10699.20
PABLO		18	0	0	400	8620	0	9020	0	9020	100	360.80	0.00	360.80
		18	0	0	0	8850	0	8850	0	8850	100	354.00	0.00	354.00
		46	0	0	0	22190	1400	23590	0	23590	100	943.60	0.00	943.60
		97	0	0	400	47110	0	47510	0	47510	100	1900.60	0.00	1900.60
		6	0	0	0	3010	0	3010	0	3010	100	120.40	0.00	120.40
		70	0	0	1000	33640	0	34640	0	34640	100	1385.60	0.00	1385.60
		48	0	0	0	25577	730	26307	0	26307	100	1052.28	0.00	1052.28
		76	0	0	920	31780	4500	37200	0	37200	100	1492.00	0.00	1492.00
		12	0	0	950	5000	0	5950	0	5950	100	238.00	0.00	238.00
		60	0	0	400	32340	0	32740	0	32740	100	1313.60	0.00	1313.60
		97	0	0	1210	46600	0	47810	0	47760	100	1919.40	0.00	1919.40
		72	0	0	500	34640	0	35140	0	35140	100	1407.40	0.00	1407.40
		105	0	0	0	52375	0	52375	0	52375	100	2101.80	0.00	2101.80
		38	0	0	0	18770	400	19170	0	19170	100	766.80	0.00	766.80
		53	0	0	1700	25150	0	26850	0	26850	100	1074.00	0.00	1074.00
		16	0	0	450	7440	0	7890	0	7890	100	315.60	0.00	315.60
		7	0	0	0	3170	0	3170	0	3170	100	126.80	0.00	126.80
		44	0	0	1075	19910	0	20985	0	20985	100	839.40	0.00	839.40
		73	0	0	0	35560	500	36060	0	36060	100	1442.40	0.00	1442.40
		77	0	0	0	34065	2730	36795	0	36790	100	1481.60	0.00	1481.60
		34	0	0	0	17230	0	17230	0	17230	100	689.20	0.00	689.20
	PABLO AREA TOTALS		1067	0	0	9005	513027	10260	532292	0	532237	100	21325.28	0.00
DEER LODGE		52	0	0	0	24890	0	24890	0	24890	100	995.60	0.00	995.60
		99	0	0	1000	10130	37440	48570	0	48570	100	1942.80	0.00	1942.80
		115	0	0	0	55680	0	55680	0	55480	100	2227.20	0.00	2227.20
DEER LODGE AREA TOTALS		266	0	0	1000	90700	37440	129140	0	128940	100	5165.60	0.00	5165.60
DILLON		28	0	0	0	9260	4020	13280	0	13280	100	531.20	0.00	531.20
		36	0	0	0	13720	4020	17740	0	17740	100	709.60	0.00	709.60
		199	0	0	2400	91945	500	94845	0	94845	100	3798.80	0.00	3798.80
DILLON AREA TOTALS		263	0	0	2400	114925	8540	125865	0	125865	100	5039.60	0.00	5039.60

PLANT INDUSTRY DIVISION
MONTANA DEPARTMENT OF AGRICULTURE
AGRICULTURE/LIVESTOCK BUILDING
HELENA, MONTANA 59620

POTATO SHIPMENT REPORT--1988 CROP

COMPLETED AUGUST 25, 1989

PAGE 1

GROWING AREA	GROWER NAME	NO. CERT.	US #1 CWT	US #2 CWT	UNCLASS. CWT	BLUE TAG CWT	RED TAG CWT	TOTAL CWT	SACK OR CART. CWT	BULK CWT	% BULK	FEES	ADD. FEES	TOTAL FEES
KALISPELL		27	0	0	0	14730	0	14730	0	14730	100	589.20	0.00	589.20
		128	0	1200	0	61100	1850	64450	1250	63200	98	2581.00	0.00	2581.00
		16	0	0	0	7900	0	7900	0	7900	100	316.00	0.00	316.00
		16	0	440	0	7640	0	8080	0	8080	100	323.20	0.00	323.20
		26	0	0	1000	11470	0	12470	0	12470	100	498.80	0.00	498.80
		79	0	0	0	38890	0	38890	0	38890	100	1555.60	0.00	1555.60
		213	0	0	0	104980	1240	105320	240	105080	100	4212.80	0.00	4212.80
		26	0	0	0	12550	1750	14300	0	14300	100	572.00	0.00	572.00
		147	0	0	0	70040	1580	71540	630	70910	99	2871.40	0.00	2871.40
	KALISPELL AREA TOTALS	678	0	1640	1000	328700	6340	337680	2120	335560	99	13520.00	0.00	13520.00
PARLO		37	0	0	0	19670	0	19670	0	19670	100	786.80	0.00	786.80
		32	0	0	120	15810	0	15930	0	15930	100	637.40	0.00	637.40
		25	0	0	0	11820	0	11820	0	11820	100	473.00	0.00	473.00
		38	0	0	0	19440	0	19440	0	19440	100	777.60	0.00	777.60
		6	0	0	0	3000	0	3000	0	3000	100	120.00	0.00	120.00
		110	0	0	450	54445	0	54895	5	54890	100	2205.60	0.00	2205.60
		74	0	0	500	36490	0	36990	0	36790	100	1483.00	0.00	1483.00
		54	0	0	360	27660	0	28020	0	28020	100	1120.80	0.00	1120.80
		91	0	0	480	45500	0	45980	0	45980	100	1839.20	0.00	1839.20
		13	0	0	0	6100	0	6100	0	6100	100	245.00	0.00	245.00
		61	0	0	0	30190	0	30190	20	30170	100	1211.60	0.00	1211.60
		125	0	0	215	58572	0	58787	602	58105	99	2362.40	0.00	2362.40
		52	0	0	600	24920	0	25520	0	25520	100	1020.80	0.00	1020.80
		94	0	0	0	46050	0	46050	0	46050	100	1842.00	0.00	1842.00
		100	0	0	1650	49655	0	51305	0	51305	100	2052.20	0.00	2052.20
		44	0	0	0	20740	200	20940	0	20940	100	837.60	0.00	837.60
		27	0	0	220	12510	0	12730	0	12730	100	511.40	0.00	511.40
		74	0	0	220	35580	0	35800	100	35700	100	1433.00	0.00	1433.00
		33	0	0	228	17360	0	17588	0	17588	100	703.52	0.00	703.52
	PARLO AREA TOTALS	1090	0	0	5043	535512	200	540755	807	539948	100	21663.12	0.00	21663.12
DEER LODGE		37	0	0	0	17960	0	17960	0	17960	100	718.40	0.00	718.40
		152	0	0	2240	63690	9380	75310	0	75310	100	3012.40	0.00	3012.40
		103	0	0	0	52340	0	52340	0	52340	100	2093.60	0.00	2093.60
	DEER LODGE AREA TOTALS	292	0	0	2240	133990	9380	145610	0	145610	100	5824.40	0.00	5824.40
DILLON		38	0	0	0	16878	0	16878	88	16790	99	677.60	0.00	677.60
		40	0	0	4530	0	16380	20910	0	20910	100	836.40	0.00	836.40
		154	0	0	5520	74460	0	79980	0	79980	100	3199.20	0.00	3199.20
	DILLON AREA TOTALS	232	0	0	10050	91338	16380	117768	88	117680	100	4713.20	0.00	4713.20

PLANT INDUSTRY DIVISION
MONTANA DEPARTMENT OF AGRICULTURE
AGRICULTURE/LIVESTOCK BUILDING
HELENA, MONTANA 59620

EX 4
3-26-91
HB 37

POTATO SHIPMENT REPORT-1987 CROP

PAGE 1

COMPILED October 4, 1988

GROWING AREA	GROWER NAME	NO. CERT.	US #1 CWT	US #2 CWT	UNCLASS. CWT	BLUE TAG CWT	RED TAG CWT	TOTAL CWT	SACK OR CART. CWT	BULK CWT	% BULK	FEES	ADD. FEES	TOTAL FEES
KALISPELL		24	0	0	0	13980	0	13980	0	13980	100	559.20	0.00	559.20
		111	0	0	0	54480	0	54480	410	54070	99	2192.80	0.00	2192.80
		12	0	0	0	5800	0	5800	0	5800	100	232.00	0.00	232.00
		14	0	0	0	7850	0	7850	0	7850	100	314.00	0.00	314.00
		16	0	0	0	8000	0	8000	0	8000	100	320.00	0.00	320.00
		194	0	0	0	96465	0	96465	780	95685	99	3859.61	0.00	3859.61
		25	0	0	0	12260	80	12340	0	12340	100	495.40	0.00	495.40
		129	0	0	0	46810	15100	61910	125	61785	100	2481.20	0.00	2481.20
KALISPELL AREA TOTALS		525	0	0	0	245645	15180	260825	1315	259510	99	10454.21	0.00	10454.21
PABLO		31	0	0	0	15510	0	15510	0	15510	100	620.40	0.00	620.40
		26	0	0	0	13120	0	13120	0	13180	100	524.80	0.00	524.80
		23	0	0	0	11500	0	11500	0	11500	100	460.00	0.00	460.00
		33	0	0	450	16280	0	16730	0	16730	100	669.20	0.00	669.20
		28	0	0	0	13680	0	13680	0	13680	100	547.20	0.00	547.20
		1	0	0	0	325	0	325	0	325	100	13.00	0.00	13.00
		108	0	0	420	54060	0	54480	0	54480	100	2179.20	0.00	2179.20
		70	0	0	840	33970	0	34810	0	34810	100	1392.40	0.00	1392.40
		42	0	0	440	24380	0	24820	0	24820	100	992.80	0.00	992.80
		68	0	0	450	34425	0	34875	0	34875	100	1395.00	0.00	1395.00
		10	0	0	0	5023	0	5023	0	5023	100	200.90	0.00	200.90
		48	0	0	0	24350	0	24350	0	24350	100	975.00	0.00	975.00
		79	0	0	0	38690	0	38690	150	38540	100	1547.60	0.00	1547.60
		46	0	0	820	22500	0	23320	0	23320	100	932.80	0.00	932.80
		75	0	0	0	36640	0	36640	0	36640	100	1467.40	0.00	1467.40
		63	0	0	360	28310	5360	34030	0	34030	100	1361.20	0.00	1361.20
		35	0	0	420	16120	0	16540	0	17040	103	681.60	0.00	681.60
		44	0	0	200	20120	1050	21370	0	21370	100	854.80	0.00	854.80
		72	0	0	0	34800	0	34800	0	34800	100	1392.00	0.00	1392.00
		22	0	0	2180	7670	2720	12570	0	12570	100	502.80	0.00	502.80
	PABLO AREA TOTALS		924	0	0	6580	451473	9130	467183	150	467533	100	18710.10	0.00
DEER LODGE		72	0	0	2000	34585	0	36585	0	36585	100	1463.40	0.00	1463.40
		14	0	0	0	7000	0	7000	0	7000	100	280.00	0.00	280.00
		56	0	0	3240	24870	0	28110	0	28110	100	1124.40	0.00	1124.40
		90	0	0	0	43750	0	43750	120	43630	100	1765.20	0.00	1765.20
DEER LODGE AREA TOTALS		232	0	0	5240	110205	0	115445	120	115325	100	4633.00	0.00	4633.00
DILLON	BROXSLE RANCH, INC.	23	0	0	0	9640	0	9640	5	9635	100	390.40	0.00	390.40
	BROXSLE, JOHN JR. & LORI	37	0	0	1640	15970	0	17610	0	17610	100	704.40	0.00	704.40

3-26-91
HB 37

SOME FACTORS TO CONSIDER ABOUT RESTRICTED WEIGHTS AND ROUTES

1990 Shipping season of Seed Potatoes as documented by Montana
Department of Agriculture Inspection Service.

Kalispell Area shipped:

337,680 Hundred-weight (Cwt) of Certified Seed

Examples of Total Loads:

Under normal G.V.W. = 445# per inch tire width = 500 Cwt/load
= 676 loads

If restricted to 400# per inch of tire width = 420 Cwt/load
= 804 loads

Additional loads required to ship 1989 crop if restricted -- 128

Examples of Freight Costs to Quincy, WA:

Cost per round trip mile--\$1.20/mile

Miles to Quincy, WA via Hwys. 28 & 135 -- 770 mile round trip

cost per trip -- \$924.00

If 128 extra loads were shipped:

Additional freight cost per season = \$118,272.00

Miles to Quincy, WA via Hwys. 93 & I90 -- 890 mile round trip

cost per trip --\$1068.00

If 128 extra loads were shipped:

Additional freight cost per season = \$136,704.00

EXHIBIT NO. 3-26-91
DATE
BILL NO. HB 37

March 26, 1991

Mr Chairman and Members of the Committee,

I am Don Lake. I have been a potato producer in Lake County for 35 years.

For the past 10 years, I have represented Lake County on the Potato Improvement Advisory Board to Montana State University. Montana State University is charged by law as the official Potato Certification Agency for Montana. The state of Montana is recognized as having the finest Potato Certification program in the United States.

In Lake County there are twenty seven seed potato growers planting about 2,200-2,500 acres of certified seed. The seed is stored in temperature controlled cellars until early spring or when the soil temperature in Washington, Idaho, Oregon states reaches 50 degrees. Once planting begins buyers demand prompt delivery of seed potatoes in order to facilitate their planting operations. For Montana seed potato producers to remain competitive with surrounding seed producing states they must not only produce a high quality product but also accommodate the growers in all aspects of marketing their product.

Until four years ago load restrictions were placed on roads at the same time as seed potatoes needed to be shipped. In 1987 Montana seed potato growers initiated legislative action to allow potato trucks to haul their legal licence weight. During these four years the highway department was to assess the damage seed potato trucks were doing to Montana roadways. To my knowledge I have not been made aware of abnormal wear and tear to the roads.

During the past these past four years shipments of seed potatoes has gone very smoothly, due to allowing potato trucks to haul full loads from all areas of the state as the buyers wish.

The growers I represent feel your support in the passage of House Bill 37 will benefit Montana as well as the Montana potato industry. Montana can be maintained as a leader in producing high quality seed potatoes. Jobs and fuel will be saved and Montana's potato industry preserved

Respectively;



Don W. Lake

SENATE HIGHWAYS

EXHIBIT NO. 8

DATE 3-26-91

FILE NO. HB 37

MONTANA

1990 CROP

Certified Seed Potato Directory



Potato Lab
Plant Growth Center

**MONTANA
STATE
UNIVERSITY**

Extension
Service

406 994-3150

406 994-6042 FAX

*only Montana
grown seeds*

HOUSE BILL 37

SUBMITTED BY: GARY GILMORE
ADMINISTRATOR, OPERATIONS DIVISION
DEPARTMENT OF HIGHWAYS

DATE:

IN ADDITION TO THE REASONS FOR DEPARTMENT OF HIGHWAYS OPPOSITION TO HOUSE BILL 37, I WOULD LIKE TO ADD SOME ADDITIONAL COMMENTS FROM A GVW POINT OF VIEW.

THIS BILL CREATES A INEQUALITY IN WEIGHT ENFORCEMENT. PLACE YOURSELVES IN THE POSITION OF A GVW OFFICER FOR JUST A MINUTE. WHILE WEIGHING VEHICLES ON A POSTED ROAD YOU FIND A VEHICLE, SAY HAULING LOGS, THAT EXCEEDING THE LOAD RESTRICTION. WHILE YOU ARE WRITING THIS OPERATOR A CITATION A POTATO TRUCK ROLLS IN AT AN EQUAL WEIGHT AND THIS VEHICLE IS ALLOWED TO PROCEED. THIS PLACES OUR OFFICERS IN AN UNCOMFORTABLE SITUATION. IN ADDITION, WE HAVE BEEN ASKED SEVERAL TIMES WHY THIS EXEMPTION CANNOT BE GRANTED TO OTHER COMMODITY CARRIERS. IN FACT ONE LOG HAULER HAS INFORMED US THAT THIS LAW IS UNCONSTITUTIONAL AND WILL FIGHT TO THE BITTER END IF HE IS CITED ON A POSTED ROAD.

EVEN WITH THIS EXEMPTION THE GVW DIVISION ISSUED 30 CITATIONS TO OVERWEIGHT POTATO TRUCKS LAST YEAR. THIS FIRST CITATION WAS ISSUED ON JANUARY 6, 1990 AT BOZEMAN, AND THE LAST WAS ISSUED AT BILLINGS ON JUNE 23. ALL THE CITATIONS EXCEPT ONE WERE ISSUED AT INTERSTATE SCALES ON THEIR WAY OUT OF THE STATE. IT IS DIFFICULT TO ASCERTAIN THE ORIGIN OF THESE LOADS. HOWEVER ONE CITATION WAS ISSUED TO A TRUCK ON HIGHWAY 200 NEAR PLAINS, FOR AN EXCESS OF 6200 POUNDS. THAT IS 6200 POUNDS OVER THE LEGAL LIMIT. THIS TRUCK WOULD HAVE EXCEEDED THE POSTED LIMIT BY AT LEAST 10,200 POUNDS.

THE DEPARTMENT HAS IMPLEMENTED SEVERAL IDEAS TO EASE THE BURDEN ON THE POTATO HAULERS. WE DO NOT RESTRICT HIGHWAY 93 SO THAT CARRIERS HAVE A CORRIDOR TO EXIT THE STATE. WE ALLOW POTATO TRUCKS TO GO TO THE FIRST CERTIFIED SCALE WITHIN 25 MILES TO CHECK ITS WEIGHT WITHOUT PENALTY. FINALLY, WE ALLOW THE STEERING AXLE TO CARRY 12,000 POUNDS RATHER THAN 10,000. RIGHT NOW, A 4000 POUND LOAD LIMIT WOULD DECREASE THE AVERAGE TRUCK BY ONLY 4000 POUNDS. WE FEEL THIS IS NOT THAT GREAT OF PRICE TO PAY TO PROTECT OUR HIGHWAYS AT THERE MOST VULNERABLE TIME.

ALTHOUGH THE AMENDMENTS TO THIS BILL HELP EASE THE PROBLEM FROM HIGHWAY DEPARTMENT STANDPOINT, WE URGE YOU TO GIVE THIS BILL A DO NOT PASS RECOMMENDATION.

HOUSE BILL 37

Prepared for The GROSS VEHICLE WEIGHT DIVISION

by: Joe O'Neil From Division Records

TICKET NUMBER	DATE	LOCATION	POUNDS OVERWEIGHT
3040977	1-6-90	BOZEMAN SCALE	1,900
B040987	1-27-90	BOZEMAN SCALE	2,040
B031889	2-4-90	I90 EAST CROW AGENCY	3,000
B045392	2-6-90	I90 DRUMMOND	3,340
B042448	2-27-90	WIBAU SCALE	2,640
B047320	3-4-90	I15 BUTTE	2,580
B039367	3-7-90	I90 HAUGAN	1,960
B039368	3-8-90	I90 HAUGAN	2,480
B039369	3-8-90	I90 HAUGAN	4,420
B046150	3-13-90	I90 HAUGAN	2,220
B042394	3-14-90	I90 BILLINGS	3,080
B039373	3-15-90	I90 HAUGAN	2,520
B047340	3-25-90	I15 BUTTE	2,120
B045264	3-26-90	I90 DRUMMOND	1,880
B046691	3-28-90	I90 CROW AGENCY	2,240
B048732	4-1-90	US191 BOZEMAN	1,760
B037921	4-3-90	I90 BILLINGS	3,960
B047351	4-3-90	I15 BUTTE	2,580
B047352	4-3-90	I15 BUTTE	1,880
B042398	4-5-90	I90 BILLINGS	2,400
B049602	4-11-90	I15 BUTTE	1,720
B049603	4-11-90	I15 BUTTE	1,820
✓B030915	4-13-90	HWY200 PLAINS	6,200
B043638	4-16-90	I90 HAUGAN	5,920
B045094	4-18-90	I15 LIMA	3,200
B048744	4-18-90	US191 BOZEMAN	1,900
B044708	5-1-90	US87	2,500
B045466	5-3-90	I90 DRUMMOND	2,900
B050287	5-30-90	US191 BOZEMAN	1,592
B037796	6-23-90	I15 BILLINGS	4,240

Mr. Chairman and members of the committee

For the record -

1. During the spring our highways are most vulnerable to damage.

ROADBEDS

A. ~~Fills~~ are soft due to:

- 1) melting snow in ditches
- 2) seasonal precipitation
- 3) freeze-thaw cycle
- 4) spring run-off
- 5) frost coming out of ground and prohibiting surface and subsurface moisture from going into the ground

B. Results are a saturated roadway with the only stability being the pavement.

2. Every load has potential to do damage. The heavier the load the more damage.

A. This relationship of weight to damage is progressive - meaning

- 1) If you double the load, the effect on the road is not doubled, it is 10, 20, to 30 times as much.

2) Conversely - cutting the load in half does not cut the effect and damage in half, but will decrease it by 10, 20 or 30 times.

B. Even if no~~x~~ physical damage is seen to the pavement

1) effects and damage are occurring under the pavement

a) moisture pumping into subgrade

b) gravels are being contaminated by soils being pumped with moisture

c) all creates a mixing action under the pavement resulting in a roadway that has a load carry capability that is greatly reduced.

2) When these conditions occur, even a few trucks can totally destroy the surface of the road.

3) These effects are more damaging on older roads than newer ones, but the effects are present on all roads.

C. We cannot say that restricting all loads will eliminate damage but, it will definitely, and substantially, reduce

~~it~~ the damage.

This is why the Department of Highways is opposed to HB 37.

EXHIBIT NO. 11
DATE 3-26-91
BILL NO. H.B. 557

TESTIMONY ON H.B. 557

~~FEBRUARY 19, 1991~~

MARCH 26, 1991

I AM RICH BROWN, ADMINISTRATOR OF MONTANA'S VETERANS AFFAIRS DIVISION.

FOR YEARS, COUNTIES ACROSS MONTANA HAVE ALLOWED 100% SERVICE-CONNECTED DISABLED VETERANS THE OPTION OF PAYING THEIR FEES PURSUANT TO TITLE 61-3-451 M.C.A. AND THEN IF THEY DECIDED ON A DIFFERENT LICENSE PLATE TO EITHER PAY THE ADDITIONAL COSTS (FOR EXAMPLE: PAY AN ADDITIONAL \$25.00 AND SECURE A PERSONALIZED LICENSE PLATE) OR THE OPTION OF ANOTHER LICENSE PLATE (P.O.W. OR HANDICAPPED LICENSE PLATE). THIS PROCEDURE HAS ALLOWED 100% SERVICE-CONNECTED DISABLED VETERANS WHO WISH A PERSONALIZED PLATE TO UTILIZE THE BENEFIT YOU HAVE GIVEN THEM UNDER TITLE 61-3-451 WITHOUT THE REQUIREMENT OF NOTING THEIR DISABILITY TO THE ENTIRE STATE. THE COUNTY PROCEDURE ALLOWED 100% SERVICE-CONNECTED DISABLED VETERANS THE RECOGNITION AS FORMER P.O.W.'S RATHER THAN DISABLED VETERANS AND ALLOWED THOSE PHYSICALLY IMPAIRED VETERANS THE ABILITY TO CHOOSE THE INTERNATIONALLY RECOGNIZED HANDICAPPED SYMBOL RATHER THAN THE D.V. PLATE. FOR THE PHYSICALLY IMPAIRED THIS MEANT IF THEY WERE ABLE TO TRAVEL TO ANOTHER STATE OR CANADA THEY DID NOT RISK A PARKING TICKET WITH THE INTERNATIONALLY RECOGNIZED HANDICAPPED PLATE WHICH IS NOT THE CASE WITH THE D.V. PLATE.

ON NOVEMBER 15, 1990, THE ATTORNEY GENERALS' OFFICE ISSUED AN OPINION NOTING THAT 100% DISABLED VETERANS WISHING TO QUALIFY FOR THE TAX EXEMPTION YOU GRANTED HAD NO OPTIONS UNDER THE LAW AND MUST TAKE THE "D.V." LICENSE OR PAY FULL TAXES.

WE HAVE BEEN BOMBARDED BY COMPLAINS FROM THESE VETERANS WHO WERE SURPRISED WHEN THEY ENTERED THEIR COUNTY COURTHOUSE TO LEARN OF THIS NEW AND VERY STRICT OPINION. ONE BLINDED VIETNAM VETERAN, WHO IS ALSO A NATIVE AMERICAN AND HAS UTILIZED PERSONALIZED PLATES FOR A NUMBER OF YEARS, CALLED ME AND ASKED IF THE STATE WAS FORCING HIM TO BE RECOGNIZED THIS YEAR AS A DISABLED VETERAN, WOULD THE NEXT STEP REQUIRE HE PURCHASE PLATES THAT NOTED HE WAS ALSO AN INDIAN. P.O.W.'S AND MOBILITY IMPAIRED VETERANS HAVE ECHOED THIS VETERANS SENTIMENTS. ALL HAVE BEEN SURPRISED AND SHOCKED TO LEARN OF THE NEWS.

A REQUEST TO THE ATTORNEY GENERALS' OFFICE TO CHANGE OR HOLD OFF OF THIS OPINION HAS BEEN ANSWERED WITH A 'REGRETTABLE NO'.

WE HAVE THEREFORE BROUGHT THIS ISSUE TO YOU. IF H.B. 557 IS PASSED AND SIGNED INTO LAW, IT WILL ONLY RESTORE FOR MONTANA'S 100% DISABLED VETERANS THE OPTIONS COUNTIES HAVE GIVEN TO THEM FOR YEARS. IT WILL, IN MY PROFESSIONAL OPINION, ~~IT WILL~~ SIMPLY RESTORE YOUR ORIGINAL LEGISLATIVE INTENT.

ON BEHALF OF MONTANA'S APPROXIMATELY 600, 100% SERVICE-CONNECTED DISABLED VETERANS, I WISH TO THANK YOU AND REPRESENTATIVE REAM FOR YOUR TIME AND CONSIDERATION ON THIS ISSUE.

Amendments to House Bill No. 557
Third Reading Copy

Requested by Department of Justice
For the Senate Committee on Highways and Transportation

Prepared by Paul Verdon
March 25, 1991

1. Page 3, line 19.

Following: line 18

Insert: "NEW SECTION. Section 5. Coordination instruction. If Senate Bill No. 191, including amendments incorporating into 61-3-332 provisions allowing a disabled veteran the option of receiving a handicapped license plate or, if qualified, an ex-prisoner of war license plate, is passed and approved:
(1) [sections 1 and 2 of this act] are void; and
(2) in 61-3-455, the code commissioner shall change "61-3-451" to "61-3-332"."

Renumber: subsequent section

REPORT TO DEPARTMENT BY PHYSICIAN

DATE 3-26-91

BILL NO. HB 570

Section 1 - Amends section 37-2-311 to allow the bureau the choice of either conducting an investigation or an examination on individuals reported to the bureau who may be having problems in the safe operation of a motor vehicle. Provides that the physicians report may be used as evidence before the department or court involving granting, suspension, revocation of persons driver's license, driving privilege, or commercial motor vehicle operator's endorsement.

³
Section 2 - Amends section 61-5-207 regarding re-examinations to allow bureau to conduct an investigation on an individual based on information received, investigate the licensee's record, physical or mental condition and/or need for a license. The bureau may use information gathered from the investigation regarding continued driving privileges.

⁴
Section 3 - This change in the law, would allow the department to send a traffic conviction to the "home" state of licensure if the person was licensed in another state or jurisdiction, may take action as required against the license.

At present time, the department takes action as though the person were a resident of Montana with the exception of the reinstatement fee for alcohol violations.

For example, a person from Texas is convicted of 1st offense DUI. Montana would (under present law) take action to suspend his driving privilege for 6 months. The conviction would then be sent to Texas where they also take sanctions against him because he is licensed there. However, because he may be eligible for a probationary or temporary license in Texas, they would not license due to the suspension in Montana. Montana would not release the suspension unless he were to return to Montana and obtain a Montana license, which he does not wish to do since he is a resident of Texas. If he were to return to Montana, we could not license with a probationary due to the suspension in Texas. So the person is caught between requirements of two jurisdictions.

If passed, the new law would allow the state to send the conviction to Texas without taking any action in Montana, and allowing Texas to take whatever action against his license as allowed by their laws.

²
Section 4 - (1) Amends section 61-5-108 to provide for employees of the bureau to verifying validity of minor applications currently this process must be done in presence of a notary, provides for accepting a signature of only one parent or by one parent or by any responsible person willing to assume financial obligation imposed under this adapter regarding a person signing for a minor. 2) To add a provision to limit liability to the amount of the policy in effect in case of a motor vehicle is operated by a minor/or physical control.

67-3-422. Issuance of certificates of public convenience and necessity. (1) No air carrier may engage in an operation in this state without first obtaining from the board a certificate of public convenience and necessity authorizing the operation.

(2) An applicant shall submit his written verified application to the board. The application shall be in a form, contain the information, and be accompanied by proof of service upon all air carriers with which the proposed service is likely to compete and upon other interested parties, as the board requires. Each application shall be accompanied by a fee of \$150.

(3) In awarding certificates of public convenience and necessity, the board shall consider the business experience of the particular air carrier in the field of air operations, the financial stability of the carrier, the insurance coverage of the carrier, the type of aircraft which the carrier would employ, proposed routes and minimum schedules to be established, whether the carrier could economically give adequate service to the communities involved, the need for the service, and any other factors which may affect the public interest.

(4) After notice to the interested parties and the public and after hearing, the board may:

- (a) issue the certificate requested;
- (b) refuse to issue the certificate;
- (c) issue the certificate for the partial exercise only of the privilege sought.

(5) The board may attach terms and conditions to the exercise of the rights granted by the certificate as, in its judgment, the public convenience and necessity require.

History: En. 1-323.1 by Sec. 28, Ch. 348, L. 1974; R.C.M. 1947, 1-323.1.

67-3-423. Transfer and combination of certificates of public convenience and necessity. (1) The holder of a certificate of public convenience and necessity must apply to the board for permission to sell, mortgage, lease, assign, transfer, or otherwise encumber a certificate. A fee of \$150 shall be paid to the department for filing each application to sell, mortgage, lease, assign, transfer, or otherwise encumber a certificate.

(2) The board may, after notice and hearing, approve the application or refuse to approve it and may approve it under those terms and conditions which, in its judgment, the public convenience and necessity require.

(3) Without the express approval of the board, no certificate of public convenience and necessity issued to one air carrier may be combined, united, or consolidated with a certificate issued to or possessed by another carrier so as to permit through service between any point served by one carrier and any point served by the other carrier.

History: En. 1-323.2 by Sec. 29, Ch. 348, L. 1974; R.C.M. 1947, 1-323.2.

67-3-424. Suspension — amendment — revocation. (1) Upon a finding of an agency of the federal government that an air carrier is operating in violation of a federal safety law or regulation, the board may suspend and the department shall enforce the suspension of certificates of public convenience and necessity issued by the board.

(2) For any other good cause, the board may, upon notice to the holder of a certificate and opportunity to be heard, suspend, revoke, alter, or amend a certificate.

History: En. 1-323.3 by Sec. 30, Ch. 348, L. 1974; R.C.M. 1947, 1-323.3.

67-3-422

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67-3-422

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History: I

67-3-422

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Cross-References

Contested cases, Title 2, ch. 4, part 6.

67-3-425. Establishment of rates — discontinuance of service. (1) An air carrier may, upon prior written approval from the board, after notice to all interested parties and the public and after hearing, establish through rates and joint rates, charges, and classifications between all points served by it under certificates or operative rights issued to or possessed by it.

(2) No air carrier may discontinue operations to a point without authority of the board, unless the operations are unprofitable. Unprofitable operations may be discontinued upon 30 days' notice to the board and to other persons the board may require, unless within the 30-day period the board, after hearing, finds that the operation is not unprofitable and orders its continuance.

History: En. 1-323.4 by Sec. 31, Ch. 348, L. 1974; R.C.M. 1947, 1-323.4.

67-3-426. Board may require insurance. The board may, upon its motion or upon application of an interested party and after hearing, require an air carrier to procure and maintain insurance in amounts and upon terms as the board may determine. The board may suspend the certificate of an air carrier for failure to comply with the insurance regulations established under this section.

History: En. 1-323.5 by Sec. 32, Ch. 348, L. 1974; R.C.M. 1947, 1-323.5.

67-3-427. Enforcement, appeals, and judicial determinations. (1) When a complaint has been filed with the board alleging that an aircraft is being operated without a certificate of public convenience and necessity or when the board believes that 67-3-421 through 67-3-429 are being violated, the board shall investigate the operations and may, after a hearing, make its order requiring the operator of the aircraft to stop an operation in violation of this section. The department shall enforce compliance with the order by means of powers vested in it by law.

(2) The district court has jurisdiction to enforce, by proper decree, injunction, or order, the rates, classifications, rules, and orders made by the board. The proceeding shall be by equitable action in the name of the state and shall be instituted by the attorney general or county attorney when advised by the department that an air carrier is violating or refusing to comply with a rule, order, rate, or classification made by the board and applicable to that air carrier. The proceedings shall have precedence over all other business in the district courts except criminal business.

(3) In an action the burden of proof rests upon the defendant, who must show by clear and satisfactory evidence that the rule, order, rate, or classification involved is unreasonable and unjust. If the court decides that the rule, order, rate, or classification is not unreasonable or unjust and that in refusing compliance the air carrier is failing to fulfill a duty, debt, or obligation, the court shall decree a mandatory and permanent injunction compelling compliance with the rule, order, rate, or classification by the defendant and its officers, agents, servants, and employees and may grant other relief which may be considered just and proper. A violation of the decree makes the defendant and officer, agent, servant, or employee of the defendant who is in any manner instrumental in the violation guilty of contempt, punishable by a fine not

exceeding \$1,000 for each offense or by imprisonment of that person until he sufficiently purges himself. The decree remains in effect until the rule, order, rate, or classification is modified or vacated by the board.

(4) An air carrier may bring an action in the district court of the county where the principal office or place of business is situated or in a county where a classification, rate, toll, charge, rule, or order of the board applies, against the board as defendant to determine whether the classification, rate, toll, charge, rule, or order made or established by the board is just and reasonable. In an action, hearing, or proceeding in any court, the classification, rate, toll, charge, rule, and order made and established by the board shall prima facie be considered just, reasonable, and proper.

(5) Appeals taken to the supreme court from the judgment of a district court under this section have precedence over all other business, except criminal business and original proceedings in that court, and shall be heard and determined as are appeals in civil actions.

(6) All costs and expenses incurred in the hearing, trial, or appeal of an action brought under this section shall be determined and assessed in a manner the court considers just and equitable.

History: En. 1-323.6 by Sec. 33, Ch. 348, L. 1974; R.C.M. 1947, 1-323.6.

Cross-References

Contested cases, Title 2, ch. 4, part 6.
Injunctions, Title 27, ch. 19.

Departmental enforcement, 67-2-501.
Departmental investigations, 67-2-502.

67-3-428. Notice of regulation hearings. Notice as required by 67-3-421 through 67-3-427 shall be given by publication once a week for 3 successive weeks in a newspaper of general circulation in the county in which the hearing is to be held and by personal service by mailing to all interested parties. However, in the case of the hearings required by 67-3-421 and 67-3-425(1), if no written protest or written request that the hearing be held is received by the board within 5 days after the date of the last publication of the notice, the board may, in its discretion, vacate the hearing and establish the rates, fares, charges, classifications, and rules of the air carrier without hearing. The notice required by this section shall state that the board may vacate the hearing unless a written protest or request that the hearing be held is received by the board as required by this section.

History: En. Sec. 3, Ch. 171, L. 1967; amd. Sec. 1, Ch. 208, L. 1969; amd. Sec. 34, Ch. 348, L. 1974; R.C.M. 1947, 1-324.

67-3-429. Exceptions. (1) No air carrier may operate aircraft except in accordance with 67-3-421 through 67-3-429.

(2) Sections 67-3-421 through 67-3-429 do not apply to:

(a) common carriers of passengers or freight by aircraft which operate within this state under a certificate of public convenience and necessity issued by the federal government; or

(b) aircraft operators who carry passengers for hire, are commonly known as "taxi operators" or "charter operators", operate on an occasional or contract basis, and do not operate as common carriers between terminal points, including intermediate points, if any.

History: En. Sec. 1, Ch. 171, L. 1967; amd. Sec. 25, Ch. 348, L. 1974; R.C.M. 1947, 1-322.



BURLINGTON NORTHERN RAILROAD

PAT KEIM
Director, Government Affairs

EXHIBIT NO. 15
DATE 3-26-91
BILL NO. HB 705

139 North Last Chance Gulch
Helena, Montana 59601
(406) 442-1296

March 26, 1991

Senator Cecil Weeding
Chairman,
Senate Highways and Transportation Committee
Capitol Station
Helena, MT 59620

Mr. Chairman and Members of the Committee:

Please let the record show that Burlington Northern Railroad is in support of House Bill 705.

Sincerely,

Pat C. Keim
Director

PCK/sp

EXHIBIT NO. 16
DATE 3-26-91
BILL NO. HB 705

Amendments to House Bill No. 705
Third Reading Copy

For the Senate Committee on Highways and Transportation

Prepared by Paul Verdon
March 27, 1991

1. Title, lines 11 and 12.

Strike: "OR MAINTENANCE-OF-WAY ACTIVITIES"

2. Page 3, lines 4 and 5.

Strike: "or in connection with railroad maintenance-of-way activities"



The Big Sky Country

SENATE HIGHWAYS
EXHIBIT NO. 17
DATE 3-26-91
BILL NO. HB 192

MONTANA HOUSE OF REPRESENTATIVES

REPRESENTATIVE DON LARSON

HELENA ADDRESS:
936 CANNON
HELENA, MONTANA 59620
(406) 442-9734

HOME ADDRESS:
P.O. BOX 285
SEELEY LAKE, MONTANA 59868
(406) 677-2570

COMMITTEES:
AGRICULTURE
BUSINESS & INDUSTRY
HIGHWAYS & TRANSPORTATION

March 11, 1991

Senator Cecil Weeding, Chairman
Senate Highway Committee
Room 410
State Capitol

Dear Senator and Members of the Highway Committee:

I am writing to you to register my concern about House Bill 192, a bill to place log hauling under the regulatory authority of the Public Service Commission.

As a representative of a logging/lumbering district, I can both understand the concerns that motivated the introduction of this bill and the problems with the bill in its present form.

There are better options to pursue than blanket regulation of the entire, beleaguered timber industry. The state of Montana could merely require a written contract between the buyer and seller of a timber sale, with the haul rate specified. Period. It is that simple, members of the Committee.

There are some major problems with this bill:

(1) It still allows negotiation of the haul rates so that rates can be managed on a job-to-job basis. It does not guarantee improved rates for haulers. Quite the contrary. If a road condition on a job deteriorates in the course of a haul job (which often occurs) and it becomes difficult for the trucks, the hauler cannot re-negotiate under this bill. He is locked in to an unprofitable haul rate.

(2) It adds costs. Regulatory and reporting costs will be passed on to an industry that is expected to downsize by as much as 25 percent in the next decade. To keep Montana wood products competitive with the products in the regional market and national markets, the State of Montana must do all it can to help keep costs down, not add to them.

Representative Don Larson
March 11, 1991

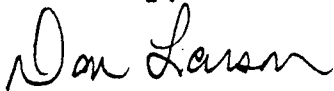
Page 2

(3) It adds trucks. The chances of logging contractors and mills buying their own trucks to avoid the regulation are good, under the provisions of this bill. That would in effect create a yet larger surplus of haulers to compete for a shrinking number of log loads.

At the House Highways hearings on the bill, roughly half of the people testified in favor of the bill and half against it. Is it fair to bring regulation down on the entire industry given those numbers? I submit not. Also, the majority of the proponents came from the Flathead, where haulers are experiencing an unusual investigation by the Federal Department of Transportation. I suggest there is a local problem in the Flathead, rather than a statewide problem.

I would appreciate your serious consideration of these concerns as you deliberate on House Bill 192.

Sincerely,



Don Larson
Representative House District 65
(D-Seeley Lake)

DL/mf



CHRISTOFFERSON LOGLINERS, INC.

OWNERS

Leroy L. Christofferson, President
Jacque G. Christofferson, Vice President

CONTROLLER

Pri Fernando, Controller

SENATE HIGHWAYS

EXHIBIT NO. 18

DATE 3-26-91

BILL NO. HB 192

3820 SOUTH THIRD WEST
MISSOULA, MONTANA 59801
Office 549-2039 Shop 549-3724 FAX 543-6121

FAX COVER PAGE

DATE: March 22, 1991

TO: Senate - Highway & Transportation Committee
Attention: Cecil Weeding

NUMBER OF PAGES INCLUDING COVER PAGE: 7

FAX NUMBER 1-444-4105

RE: House Bill 192

ATTENTION: LARRY STIMATZ

**CHRISTOFFERSON LOGLINERS, INC.****OWNERS**

Leroy L. Christofferson, President
Jacque G. Christofferson, Vice President

CONTROLLER

Pri Fernando, Controller

3820 SOUTH THIRD WEST
MISSOULA, MONTANA 59801

Office 549-2039 Shop 549-3724 FAX 543-6121

March 22, 1991

SENATE HIGHWAYS

EXHIBIT NO. 18

DATE 3-26-91

BILL NO. HB 192

Senate Highway & Transportation Committee
Montana Capital Station
Helena, MT 59601

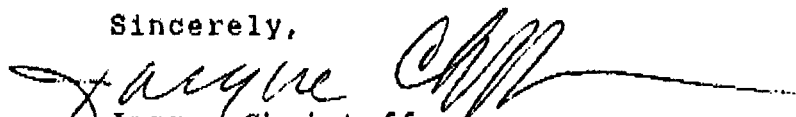
Dear Honorable Committee:

I was sitting up in the balcony March 21, 1991, listening to both sides of House Bill 192 debate, I want to clarify some statements Representative Wazenried said.

1. Opponents are being intimidated by the mills to be in opposition of this Bill. **UNTRUE.** The only intimidation I have physically watched and attended is when the MMCA and Wazenried use **SALESMANSHIP** on these truckers who don't want it. A good analogy would be the city slicker life insurance salesman who goes to the farm and explains why they should buy the policy and they don't really want it. That's the intimidation.
2. The Thompson Falls meeting discussed the 1989 bill Wazenried claimed. **UNTRUE.** Leroy and I attended that meeting and the 1991 bill was discussed. Jim Elliott, especially, didn't want them there because of their intimidation tactics. Elliott wanted only facts thrown at the people and Wayne Butts did just that as he was asked to.

Of the several discussions I held yesterday, all the people want is Plum Creek to reorganize their trucking administration. **NO REGULATION OR P.S.C.** They just don't know how to make the logger pass the full rate onto the trucker, and that's not every logger who doesn't pass it on. A few bad apples, again. If we pass this regulation, Idaho as it has been said will want to keep us out, too. We have enjoyed our privileges, leave them alone!! Long term will be less work available and higher unemployment if House Bill 192 passes. Vote no!

Sincerely,


Jacque Christofferson



CHRISTOFFERSON LOGLINERS, INC.

OWNERS

Leroy L. Christofferson, President
Jacque G. Christofferson, Vice President

CONTROLLER

Pri Fernando, Controller

3820 SOUTH THIRD WEST
MISSOULA, MONTANA 59801
Office 549-2039 Shop 549-3724 FAX 543-6121

March 22, 1991

Senate Highway & Transportation Committee
Montana Capital Station
Helena, MT 59601

Honorable Members of the Committee:

Thank you for a well conducted Senate hearing on House Bill 192.

As one of the opponents who testified before you, I wish to add a couple of comments that I feel were not answered during the question and answer period.

First, the formula or schedule which Champion, Plum Creek or Stoltz used to determine hauling costs is fundamentally O.K. and I believe in every case that they are willing to adjust these rates when the economic conditions change, at no time have I even been refused this privilege.

However, I believe the only problem that exists is when the company includes the hauling cost in the loggers contract and that contractor does not pass it on to the trucker, which only Plum Creek does it, so why force all of us into a system of public knowledge? Champion audits our corporation to make sure our subcontractors make that rate as we are paid. So my suggestion is the logger for Plum Creek, also, be audited by Plum Creek not P.S.C. to pass those rates on to the truckers for there is nothing wrong with the Plum Creek rate, only the logger who does not pass it on. Administration procedures for Plum Creek need to be analyzed and addressed for their system only works 2/3 of the time. WE DON'T WANT OUR FINANCIAL REPORTS PUBLIC KNOWLEDGE TO FELLOW TRUCKERS SINCE THAT IS OUR EDGE ON COMPETITION. Furthermore, income from our corporation for easy employee accessibility of state posting of rates is none of their business. How our employees spend their money we pay them is none of ours, too.

I load and haul logs, 100 loads per day and the loggers and the company we work for are real fair about pay, but we also are fair and do provide a good service.



CHRISTOFFERSON LOGLINERS, INC.

OWNERS

Leroy L. Christofferson, President
Jacque G. Christofferson, Vice President

CONTROLLER

Pri Fernando, Controller

3820 SOUTH THIRD WEST
MISSOULA, MONTANA 59801

Office 549-2039 Shop 549-3724 FAX 543-6121

Ex 18

3-26-91

HB 192

We do not need any P.S.C. regulation, but if the truckers feel they can't talk to their logger in the Kalispell, Libby, and Eureka area maybe it's because they go about it the wrong way. No contractor likes any group telling him what he has to do and fundamentally this so call group of truckers, the (proponents) violated the Anti-Trust laws when they organized solely for the purpose of rate negotiations. No wonder they had a law suit filed against them.

To Senator Farrell: I will be more than happy to prove to you that every trucker I hire is paid the exact rate I get.

Enclosed is the rate sheet road classification used by the W.U.T.C. This rating system is currently under a lot of pressure in the State of Washington because the economic value of the forests has changed because of export policies.

The same thing is happening here in Montana; with a dwindling supply of logs, and poor markets an imposed rate structure would further hamper our industry.

Thanks again.

Sincerely,

Leroy L. Christofferson

P.S. Please don't let party line politics pass this bill. Kill it in the committee.

je

Enclosure

**UTILITIES AND TRANSPORTATION
COMMISSION TARIFF NO. 4-A**
SPECIAL COMMODITY TARIFF
10th Revised Page 31-B
SECTION 1 -- COMMODITY RATES

Rates are in cents per 100 pounds, Minimums per shipment are in pounds, except as noted.

COMMODITY							Item No.
CHRISTMAS TREES, loose or baled.							840
DISTANCE Not over	Rate in cents per tree or bale						
	Natural Forest Lands		Cultivated Lands				
	Col. A	Col. B	Col. A	Col. B	Col. C	Col. D	
10 Miles	11	8	27	22	21	16	
20 "	12 1/2	9 1/2	31	26	24	19	
40 "	14	11	36	31	28	23	
60 "	17	14	39	34	29	25	
80 "	--	45	--	45	--	39	
100 "	--	51	--	51	--	45	
Column A - Applies on shipments of loose trees, carrier to load. Column B - Applies on shipments of loose trees, shipper to load. Column C - Applies on shipments of baled trees, carrier to load. Column D - Applies on shipments of baled trees, shipper to load.							
FROM	TO		Rate in cents per Bale or Unit				
Production Yards	Western Washington		27				
	Central Washington		34				
	Eastern Washington		78				
Note 1: The term "Bale" or "Unit" when used in conjunction with shipments of sheared plantation trees will consist of a single tree. The term "Bale" when used in conjunction with shipments of trees other than sheared will consist of 4 trees wrapped or tied together. Trees referred to herein will not exceed 24 feet in length.							
Note 2: Central Washington as referred to herein embraces the area of Benton, Chelan, Douglas, Franklin, Grant, Kittitas and Yakima Counties. Eastern and Western Washington will cover the areas defined in Item 165 (b) exempting that portion outlined above for Central Washington.							
Note 3: Above rates are minimum rates subject to Rule 235.							
COMMODITY			Rate Per Hour				841
FOREST PRODUCTS, consisting of crushed and broken Tree limbs and tops, Bark and Sawdust. From Camp Baker and a radius of 5 miles thereof to Longview. Time to commence when truck leaves Longview and ends when truck arrives at destination.			Ø\$47.16 ±\$44.02				
Ø Applies in Live Bottom Trailer. ± Applies in Regular Chip Trailer.							

Refer to last page for explanation of abbreviations and reference marks not explained on this page.

ISSUED January 11, 1989

EFFECTIVE January 21, 1989

Issued by Washington Utilities and Transportation Commission, Olympia, Washington

Ex. 18
3-26-91
HB 192

UTILITIES AND TRANSPORTATION
COMMISSION TARIFF NO. 4-A

SPECIAL COMMODITY TARIFF

8th Revised Page 31

SECTION 1 -- COMMODITY RATES

Rates are in cents per 100 pounds, minimums per shipment are in pounds, except as noted.

COMMODITY	DISTANCE	RATE	MINIMUM	Item No.
WOODPULP, Sulphite or Sulphate, wet or dry, in laps, bales, sheets or rolls.	For mileage (see Item 990)	Col. JA Item 990	\$48,000	
Note 1: Rates do not include loading or unloading by carrier.				
Note 2: Rates include 1 hour for loading or waiting to load and 1 hour for unloading or waiting to unload. Time for each service shall NOT be aggregated. Time in excess of allowance will be charged for at \$10.38 per 1/4 hour or fraction thereof.				
Note 3: Delivery on Saturdays, Sundays, and holidays shall be charged for in accordance with Rule 167.				
Note 4: Where Puget Sound Ferry or toll bridge is used add arbitrary rates named in Rule 145.				
Note 5: Rules 270 and 275 apply to this item.				
Ø Minimum per truck unit.				

COMMODITY	Special Application of Rates within Tacoma	Rate per unit of 200 cubic feet	
WOOD, RESIDUALS, in bulk, viz: Sawdust, Hugged Fuel and Shavings.	0 to 2 1/2 miles	‡\$ 3.16	843
	2 1/2 to 5 miles	‡\$ 3.49	
	0 to 2 miles	Ø\$ 2.11	
	2 to 5 miles	Ø\$ 2.90	
	2 to 5 miles	Ø\$ 4.37	
	5 to 10 miles	Ø\$ 4.74	
	10 to 20 miles	Ø\$ 5.52	

COMMODITY	RATE PER HOUR	
WOOD, RESIDUALS, in bulk, viz: Hugged Fuel, on Solo vehicles within a 15 mile radius of Morton, Centralia, Toutle Lake or Napavine.	\$21.51	844

Δ (Item 845 formerly shown hereon transferred to Original Page 31-CC).

Refer to last page for explanation of abbreviations and reference marks not explained on this page.

ISSUED December 5, 1988

EFFECTIVE December 17, 1988

Issued by Washington Utilities and Transportation Commission, Olympia, Washington

UTILITIES AND TRANSPORTATION
COMMISSION TARIFF NO. 4-A

SPECIAL COMMODITY TARIFF

3rd Revised Page 31-CC

SECTION 1 -- COMMODITY RATES

Rates are in cents per 100 pounds, minimums per shipment are in pounds, except as noted.

COMMODITY	DISTANCE (See Rule 225) Not over:	RATE \$	RATE S	RATE Ø	DISTANCE (See Rule 225) Not over:	RATE \$	RATE S	RATE Ø	ITEM
WOOD RESIDUALS, in bulk, viz:	5 Mi.	13.4	11.9	..	55 Mi.	43.1	37.4	34.8	<u>245</u>
Wood Chips, ØWood	10 "	16.6	13.8	..	60 "	45.7	39.8	37.0	
Pellets, Hoggged	15 "	19.3	16.2	..	65 "	48.7	42.3	39.2	
Fuel, Sawdust,	20 "	22.2	19.2	..	70 "	52.1	44.6	41.3	
Shavings, Planer	25 "	25.2	21.6	..	75 "	55.2	47.6	43.5	
Ends and/or Bark;	30 "	28.1	24.8	..	80 "	57.8	50.2	45.6	
also applies on Tree	35 "	30.7	27.4	..	85 "	59.9	52.7	47.7	
Tops and Limbs,	40 "	34.3	29.6	..	90 "	63.8	55.2	49.9	
crushed or broken.	45 "	36.5	32.4	..	95 "	66.9	57.9	52.2	
	50 "	40.2	34.7	32.7	100 "	69.7	60.3	54.4	
				Over 100 Mi. add per 5 mi. or fraction		2.4	2.3	2.0	

Note 1: Shipper and consignee to provide facilities for bulk handling. Thirty (30) minutes will be allowed for loading,

waiting to load, unloading, or waiting to unload. Time for each service is not to be aggregated. Additional time shall be charged for at 50c per minute.

Note 2: Empty equipment mileage to be charged for at \$2.12 per mile from location of equipment to nearest point of haul.

Note 3: Where Puget Sound ferry or toll bridge is used add arbitrary rates named in Rule 145.

Note 4: Rates named herein are subject to provisions of Rule 251.

Note 5: On Saturdays, Sundays and legal holidays the rates are applicable, plus the actual overtime labor cost.

Note 6: When carrier is required to drop trailer at shippers for loading, an additional charge of \$21.79 per 24 hour period or portion thereof, will be charged for detention of each trailer.

Note 7: Provisions of this item are subject to Rule 215.

\$ Minimum per load 48,000 lbs.

Ø Minimum per load 65,000 lbs.

‡ Rate applies only when carrier furnishes "Live Bottom" equipment. Minimum per load 45,000 lbs.

(D90-354)

Refer to last page for explanation of abbreviations and reference marks not explained on this page.

ISSUED November 5, 1990

EFFECTIVE November 10, 1990

Issued by Washington Utilities and Transportation Commission, Olympia, Washington

Ex. 18
382491UTILITIES AND TRANSPORTATION
COMMISSION TARIFF NO. 4-A

SPECIAL COMMODITY TARIFF

27th Revised Page 31-D

SECTION 1 -- COMMODITY RATES

Rates are in cents per 100 pounds, minimums are in pounds, except as noted.

COMMODITY	FROM	TO	RATE	MINIMUM	ITEM
WOOD RESIDUALS, in bulk, viz: Wood Chips, Bark, Hugged Fuel, Sawdust, Shavings, Planer Ends and Planer Shavings. Note 1: Shipper to provide a loading device capable of loading carrier's equipment within five (5) minutes. Consignee to provide an unloading device capable of unloading trailers within five (5) minutes of placement upon device. Thirty (30) minutes will be allowed shipper and consignee for loading, waiting to load, unloading, and waiting to unload. Time for each service shall not be aggregated. Time in excess of allowance will be charged for at 48.3c per minute (Exception to Rule 220). Note 2: When a carrier is requested to supply and drop a trailer for loading, an additional charge of \$20.83 per 24 hour period or portion thereof will be assessed for detention of each trailer. Note 3: On Saturdays, Sundays and legal holidays, the rate applies plus actual overtime labor cost for each truck and driver. Note 4: Rates in this item are not subject to Rule No. 230. Note 5: Rates in this item are not subject to Rule No 215. Note 6: Rates in this item do not apply in "live bottom" equipment except as noted. (Refer to Pages 32-B and 32-BB for explanation of reference marks used on this page.)	Aberdeen	Everett	(C) 62.9	65,000	846
		Longview	053.7	42,000	
		Port Townsend	(x) 47.3	60,000	
			(C) 56.7	66,000	
		Steilacoom	(7) 45.3	45,000	
			37.7	48,000	
			(C) 37.3	64,000	
		Tacoma	41.8	48,000	
			(C) 35.8	64,000	
	Allen Log (15 Miles south of Forks)	Aberdeen			
		Cosmopolis	(C) 46.7	65,000	
		Hoquiam			
		Port Angeles	(C) 35.3	65,000	
	Arden	Port Townsend	(C) 60.3	65,000	
		Steilacoom	(C) 59.3	65,000	
		Kettle Falls	14.9	44,000	
			11.3	65,000	
	Arlington	Usk	(C) 28.6	64,000	
		Wallula	111.9	48,000	
		Bellingham	29.9	48,000	
		Everett	(g) 19.7	45,000	
	Axford Prairie (20 miles north of Hoquiam)		(I) 17.5	45,000	
			15.2	44,000	
			13.3	56,000	
		Marysville	(d) 50.55	---	
	Baker Shake (Near Port Angeles)	Snoqualmie	(d) 39.2	50,000	
		Tacoma	44.5	48,000	
		Hoquiam	580.91	---	
	Beaver (For Tac Facility)	Port Townsend	(2) 35.1	44,000	
		Port Angeles	30.0	50,000	
		Port Townsend	30.2	60,000	
		Tacoma	23.6	60,000	
	Belfair		31.2	50,000	
		Camas	(C) 29.7	65,000	
		Longview	(x) 97.7	48,000	
			(x) 80.9	60,000	
	Bingen	Tacoma	(A) 50.7	40,000	
		Longview	39.1	44,000	
		Camas	17.9	58,000	
		Carson	20.8	48,000	
	Cathlamet	Longview	(7) 24.4	45,000	
		Camas	46.5	48,000	
			(C) 41.9	65,000	
	Centralia	Cosmopolis	34.3	44,000	
			33.4	44,000	
		Longview	(7) 42.3	42,000	
			(7) 32.5	60,000	
			26.7	57,000	
		Olympia	19.5	60,000	
	Chehalis	Tacoma	31.6	46,000	
		Camas	(3) 43.8	50,000	
			(C) 40.7	65,000	
		Longview	29.1	44,000	
			(C) 26.5	65,000	

(Continued on next page)

(D90-291)

ISSUED September 10, 1990

EFFECTIVE September 15, 1990

Issued by Washington Utilities and Transportation Commission, Olympia, Washington

SENATE HIGHWAYS

EXHIBIT NO. 19

March 22, 1991

DATE 3-26-91

BILL NO. HB 192

19
Rodney Hahn Trucking
Jeannette Hahn
185 Cameron Br. Rd. W.
Bozeman MT 59715
406 388-7270

Regards: HB 192

Dear Mr. John Harp,

I Thankyou for hearing my testimony opposing HB 192. As a follow up to some questions that were asked, my husband and I would like to respond.

A question was asked to John Marceau of Plum Creek in Belgrade; if he compensated his loggers for fuel increases. His answer was yes, then he was asked also if the log truckers had received a compensation from there loggers, but he could not supply you with the anwser. For us the answer is yes; my husband and I received a rate increase for added fuel supplement.

I would also like to state for the record that we have never really had any big problems with verbal or written contracts on hauling agreements. At one time a logger had been late in paying, but my husband contacted the mill and informed them of the situation and in return the mill contacted the logger and confronted them with the complaint and we started receiving timely payments. In another instance with another mill, when we had not received payment from a logger, the mill in turn paid us instead of the logger.

So what I'm saying is that if the log trucker is having a problem with being paid or he doesn't know what he's being paid before he hauls, is ignorance on his own part; and he must take action. Not the PSC. These things can be handled and have been for several years. Any type of business, what ever the business is, a certain percentage is doomed to fail, regardless of regulation. It could be a number of factors due to lack of working capitol. mismanagement or whatever; but still it shouldn't be up to the State to handle and manage a persons business.

Another point I would like to make is that my husband and I own a self loading log truck. Alot of the time he does clean up accidents and other mishaps of other log trucks. He cannot charge a haul rate. It is usually done on an hourly rate. With PSC regulation we could not do this without being in violation. Say an accident happened 10 miles from the mill and he had to accept a tarriff rate that was negotiated through the PSC- EXAMPLE- \$1.00 a mile @ 10 miles (both ways) = \$20.00. It would take at least 1 to 2 hours to clean up an accident and haul the logs in. At his established hourly rate he would show a loss of \$20.00. This is not good business practice.

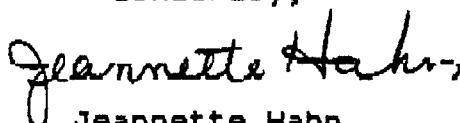
The HB 192 does not state any matters such as this. That's why I

feel that HB 192 is an unsound bill. Negotiation of the bill can not be met after passage. There is not enough propaganda in the bill to support what the bill is to accomplish. The PSC wants to much negotiation to take place after the bill passes. This makes no sense.

I urge you again, Please show your support to those of us who oppose HB 192.

Please review my enclosed letter of Testimony that was presented at the hearing of March 21, 1991. Thankyou again.

Sincerely,

A handwritten signature in cursive script that reads "Jeannette Hahn".

Jeannette Hahn
DBA Rodney Hahn Trucking

enclosure

EX. 14
3-26-91
HB 192

Testimoany for HB 192

Mar. 21, 1991

Mr. Chairman & members of the committee,

My name is Jeannette Hahn. I'm from Bozeman Montana. I represent Rodney Hahn Trucking. We are members of the Montana Log Truckers Ass. and we oppose HB 192. My husband and I own and operate one self loading log truck, and have been very successful for the past 12 years.

From a womens point of view and maybe other wives who handle the bookkeeping end of their businesses, I feel to regulate log hauling would add substantial amounts of paperwork. We have a system now that has done us well for 12 years. Why should we have to change now? For the PSC to come in and tell us we have to change our system to meet there needs in recording keeping and bookkeeping, will add hours of frustration with no financial returns. It will cost us---more insurance, more personal services, more report filing, more contracts and more government regulation. This is not cost effective.

Why do we need a bill to reuglate the price we haul for? We know the price we need to haul for, and we negotiate that with the logger. Otherwise we wouldn't still be in business after 12 years. And for those log truckers that state they do not know the rate for hauling until they receive their paycheck, is foolish on their own part.

For small self employed operators such as ourselves we need less regulation not more. Thankyou Chairman and members of the committee. I urge you to oppose HB 192.

Ex. 19
3-26-91
HB 192

March 22, 1991

Rodney Hahn Trucking
Jeannette Hahn
185 Cameron Br. Rd. W.
Bozeman MT 59715
406 388-7270

Regards: HB 192

Dear Mr. Bill Farrell,

I Thankyou for hearing my testimony opposing HB 192. As a follow up to some questions that were asked, my husband and I would like to respond.

A question was asked to John Marceau of Plum Creek in Belgrade; if he compensated his loggers for fuel increases. His answer was yes, then he was asked also if the log truckers had received a compensation from there loggers, but he could not supply you with the anwser. For us the anwser is yes; my husband and I received a rate increase for added fuel supplement.

I would also like to state for the record that we have never really had any big problems with verbal or written contracts on hauling agreements. At one time a logger had been late in paying, but my husband contacted the mill and informed them of the situation and in return the mill contacted the logger and confronted them with the complaint and we started receiving timely payments. In another instance with another mill, when we had not received payment from a logger, the mill in turn paid us instead of the logger.

So what I'm saying is that if the log trucker is having a problem with being paid or he doesn't know what he's being paid before he hauls, is ignorance on his own part; and he must take action. Not the PSC. These things can be handled and have been for several years. Any type of business, what ever the business is, a certain percentage is doomed to fail, regardless of regulation. It could be a number of factors due to lack of working capitol, mismanagement or whatever; but still it shouldn't be up to the State to handle and manage a persons business.

Another point I would like to make is that my husband and I own a self loading log truck. Alot of the time he does clean up accidents and other mishaps of other log trucks. He cannot charge a haul rate. It is usually done on an hourly rate. With PSC regulation we could not do this without being in violation. Say an accident happened 10 miles from the mill and he had to accept a tarriff rate that was negotiated through the PSC- EXAMPLE- \$1.00 a mile @ 10 miles(both ways) = \$20.00. It would take at least 1 to 2 hours to clean up an accident and haul the logs in. At his established hourly rate he would show a loss of \$80.00. This is not good business pratice.

The HB 192 does not state any matters such as this. Thats why I

feel that HB 192 is an unsound bill. Negotiation of the bill can not be met after passage. There is not enough propaganda in the bill to support what the bill is to accomplish. The PSC wants to much negotiation to take place after the bill passes. This makes no sense.

I urge you again, please show your support to those of us who oppose HB 192.

Please review my enclosed letter of Testimony that was presented at the hearing of March 21, 1991. Thankyou again.

Sincerely,

Jeannette Hahn

Jeannette Hahn
DBA Rodney Hahn Trucking

enclosure

Amendments to House Bill No. 62
Third Reading Copy

For the Senate Committee on Highways and Transportation

Prepared by Paul Verdon

March 27, 1991

1. Title, line 6.

Strike: "TRUCKS AND TRUCK TRAILER COMBINATIONS"

Insert: "VEHICLES"

2. Title, line 7.

Following: "HIGHWAY;"

Insert: "PROVIDING A PENALTY;"

3. Page 1, line 10.

Following: line 9

Insert: "

STATEMENT OF INTENT

A statement of intent is necessary for this bill because it amends 61-9-406 by adding subsection (5) that allows the department of highways to recommend or require the use of chains or other approved traction devices under certain conditions in conformance with rules authorized in subsection (6) to be established by the department of justice. It is the intent of the legislature that the recommendations or requirements of the department of highways or the rules established by the department of justice not require the installation of chains or approved traction devices on the driver wheels of more than one axle of a vehicle."

4. Page 2, line 6.

Following: "tread"

Insert: "or that are clearly marked by the manufacturer on the sidewall "all season m&s" (or "all season mud and snow")"

5. Page 2, line 25.

Page 3, line 4.

Page 3, line 17.

Strike: "TRUCKS AND TRUCK TRAILER COMBINATIONS"

Insert: "vehicles"

6. Page 3, line 23.

Strike: "all"

7. Page 3, lines 23 and 24.

Strike: "TRUCK AND TRUCK TRAILER COMBINATION"

8. Page 3, line 24.

Following: "WHEELS"

Insert: "of one axle of a vehicle"

9. Page 4, line 2.

Following: "~~gear.~~"

Insert: "The signs or traffic-control devices may differentiate in recommendations or requirements for four-wheel-drive vehicles in gear."

10. Page 4, line 3.

Following: line 2

Insert: "NEW SECTION. **Section 2. Penalty.** (1) A person violating the provisions of 61-9-406(5) through (7) is guilty of the nonmoving offense of failure to use chains or approved traction devices when required and upon conviction shall be punished by a fine of \$25, and no jail sentence may be imposed. Bond for this offense shall be \$25.

(2) A violation of 61-9-406(5) through (7) is not a misdemeanor subject to 45-2-101, 61-9-511, 61-9-512, or 61-9-519.

NEW SECTION. **Section 3. Codification instruction.**
[Section 2] is intended to be codified as an integral part of Title 61, chapter 9, part 5, and the provisions of Title 61, chapter 9, part 5, apply to [section 2]."

Amendments to House Bill No. 37
Third Reading Copy

For the Senate Committee on Highways and Transportation

Prepared by Paul Verdon
March 27, 1991

1. Title, line 5.

Strike: "MAKE PERMANENT"

Insert: "EXTEND FOR 2 YEARS"

2. Title, lines 10 and 11.

Following: "MCA" on line 10

Strike: ";" on line 10 through "1987" on line 11

Insert: ", AND SECTION 1, CHAPTER 237, LAWS OF 1989"

3. Page 4, lines 15 through 17.

Strike: section 2 in its entirety

Insert: "Section 2. Section 1, Chapter 237, Laws of 1989, is amended to read:

"Section 1. Section 4, Chapter 468, Laws of 1987, is amended to read:

"Section 4. Termination. This act terminates June 30, ~~1991~~ 1993.""

COMMITTEE ON: HIGHWAYS AND TRANSPORTATION

DATE: 3-26-91

VISITOR'S REGISTER

NAME	REPRESENTING	BILL #	SUPPORT	OPPO
James W. Treweek	Montana Potato Industry	37	X	
Merle Koering	" " "	37	X	
John Schutte	Montana Potato Industry	37	X	
Don Lake	Lake Co. Potato Growers	37	X	
Wayne W. Mangham	Montana Potato Industry	37	X	
Anna Sun	MSU	37	X	
Margaret Duncanson	MT Potato Industry	37	X	
Ernest Jones	MT Potato Industry	37	X	
Daniel Dyk	MT Potato Industry	37	X	
Doug Dyk	MT Potato Industry	37	X	
Sid Kamps	MT Potato Industry	37	X	
Betty Kamps	MT Potato Industry	37	X	
John Duncanson	MT Potato Growers	37	X	
Jason Kinn	MT Potato Growers	37	X	
Mark Kinn	MT Potato Growers	37	X	
Paul Kinn	MT Potato Growers	37	X	
Dave Tolaf	MT Potato Growers	37	X	
Vernie Koenig	MT Potato Growers	37	X	
P. F. Fleming	MT Potato Growers	37	X	

(PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY)

COMMITTEE ON: HIGHWAYS AND TRANSPORTATION

DATE: 3-12-91

VISITOR'S REGISTER

NAME	REPRESENTING	BILL #	SUPPORT	OPPOS
Pat Lewis	BN	HB133	X	
Joe Kuglin	BN - Operation Lifesaver	HB133	X	
Raymond West	UTU	HB133	X	
Richard A. Flunk	MT Operation Lifesaver	HB133	X	
Kay Foster	City of Blgs transit	HB133		X
DENNIS LIND	MRI	HB133	X	
Carl Knutson		"	X	
Lorraine Knutson		"	X	
Dona Abelin	NMORA	HB133	X	
Dayna Swanson	Office of Public Instruction	HB133	X	
D. B. Ditzel	Bro. of Locomotive Eng	HB133	X	
Patrick L. Salvin	Sponsor Rep. HD 40	HB133	X	
Patricia Salvin		HB133	X	X
Wayne Burt	MPSC	HB133	X	
Don Edwards	OCLW	HB133	X	
Ramona Bower	Benson Logging	HB133	X	

(PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY)

COMMITTEE ON: HIGHWAYS AND TRANSPORTATION

DATE: 3-26-91

VISITOR'S REGISTER *NB 638*

[illegible]

(PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY)

DATE: 3-26-91

NAME

Rich Brown

MO Veterans Affairs

557

X

QBPO

(PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY)